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THE UNIVERSITY OF ALBERTA

THE ADOPTION OF POLICIES ON ALIEN AND NON-RESIDENT LAND OWNERSHIP BY THREE PROVINCIAL GOVERNMENTS

by

Wayne G. Paquette

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ABSTRACT

This thesis examines the development of legislation and policies implemented to regulate alien and non-resident land ownership by three provincial governments: Ontario, Saskatchewan and Alberta. Significant emphasis is placed on describing those factors which have produced the legislation in order to determine whether or not such factors were common or unique to each province. To accomplish this objective, this thesis examines the position and impact of the political party in power, opposition political parties, interest groups, government studies, the media and public opinion. The discussion focuses in detail on the period from 1970 to May 1982. It is during this period that federal and provincial governments adopted the majority of legislation and policies dealing with alien and non-resident land ownership in Canada. Research material for this thesis included legislative debates, government documents, newspapers, books, periodicals, and interviews.

This study concludes that there were both similarities and differences in the development of legislation in the three provinces. Initially controls on alien and non-resident land ownership were implemented by the three provincial governments to correct an anticipated or existing problem posed by this type of investment to the province's land market. This problem appeared in various forms.

In Ontario, controls arose primarily to deal with the problem of inflation and declining land availability from increasing foreign ownership in the Ontario land market. In Saskatchewan, controls arose due to the Saskatchewan New Democratic Party's opposition to foreign investment as well as to protect agriculture's importance in the Saskatchewan economy. In Alberta, controls reflect the provincial government's desire to remove the potential threat of large scale speculation and to ensure a comparatively low amount of alien land ownership in the province.

In all three provinces, the government proved to be the dominant actor in this policy field. It had the power to pass legislation as well as to initiate public funded government studies on this issue. In general, opposition parties, interest groups, the public and the media supported the principle of restrictive legislation on land speculation and alien land ownership. Often, however, considerable differences arose about the best method to restrict investment. Since only three provinces were studied, this study also concludes that other Canadian provinces should be examined to determine more generally the determinants of policy in this important area.

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CHAPTER 1

INTRODUCTION

The causes and consequences of foreign ownership of the Canadian economy are perennial topics of political and scholarly controversy. But until recently, political discourse generally focussed on the issue of foreign investment in industry and commerce. Indeed, only in the last decade has the agenda expanded to include concerns about alien and non-resident ownership of land, especially recreational and agricultural acreage. In the 1970s, most Canadian governments dealt with this relatively new problem by passing legislation, of varying restrictiveness, to control non-resident land ownership. A comparison and analysis of the three governments' policies - Alberta, Saskatchewan and Ontario - is the heart of this study.

1.1 Nature of the Study

In examining the response of three provinces, emphasis is placed on describing those factors which seem crucial in shaping the resultant legislation. The focus is then on the unique and common factors between the provinces. The overall goal is to better understand provincial policies on alien and non-resident land ownership and the general policy process. The thesis examines the influence of such forces as political parties, interest groups, government studies, the media, public opinion and the socio-economic environment.

For each province, the discussion includes a brief history of the law prior to the 1970s. The discussion then focuses on the period from 1970 to May 1982, for it was during this period that federal and provincial governments adopted significant legislation and policies on alien and non-resident land ownership. Included in the discussion on each province is a description of the relevant features of the social, economic, and political environment. Tables and figures are provided to illustrate and describe the events surrounding the passage of legislation in each province. These include lists of briefs submitted to committees, statistical mapping and charts showing the nature and degree of alien and non-resident land ownership in the province, and tables outlining the passage of bills through provincial legislatures.

Resource materials employed include books, periodicals, newspapers, magazines, legislative debates and journals, and government documents. Legislative debates are used extensively. Such were employed to obtain the position and impact of the provincial government and opposition parties when the legislation was passed. These debates also provide insight into the position and impact of interest groups and the public since the government often discussed their role during the debates. Newspapers were another major information source on the role of interest groups and public opinion.

A limitation of the legislative debates is the fact that the government sometimes does not indicate during the debates why certain amendments are made to the legislation once it has been introduced. With few exceptions, Crown land regulations on alien and non-resident land ownership are often ignored during legislative debates.

This sometimes makes it difficult to obtain the precise rationale for governments' actions. To obtain information on the social and economic environment of the province, this thesis examined the various studies on alien and non-resident land ownership that were conducted by the provincial legislative committees. Included in these studies (which were mostly published between 1972 and 1977) were summaries of hearings and submissions, statistical data and recommendations made by the committee members.

Most of the above-mentioned materials were obtained at the University of Alberta's Cameron Library, Law Library, and Rutherford Library. Other libraries contacted included the Alberta Legislative Library, Provincial Archives Library, and Energy and Natural Resources Library in Edmonton as well as the City of Edmonton's Centennial Library. Newspaper articles and related material, were studied at University of Alberta's Cameron Microfilm Library and the newspaper files of the Alberta Provincial Legislature Library. The central newspaper sources include the Calgary Albertan, the Calgary Herald, the Edmonton Journal, the Hamilton Spectator, the Ottawa Citizen, the Ottawa Journal, the Regina Leader-Post, the Globe and Mail, the Toronto Star and Saskatoon's Western Producer. The provincial legislative libraries of Saskatchewan and Ontario were also contacted by telephone. As a result, the author received pertinent newspaper articles and related material from Saskatchewan. The library staff at Ontario stated that their newspaper files contained no relevant articles on this issue. This writer also contacted the Saskatchewan Farm Ownership Board by letter and later gratefully received from the

Director, Mr. Ed Rasmussen, a number of useful unpublished papers.[2]

As to the organization of this thesis, Chapter 2 probes the constitutional and legal framework for legislation and examines the authority of the federal and provincial governments. Chapter 3 investigates Ontario's legislation and policies created to control alien and non-resident land ownership. Chapters 4 and 5 investigate respectively the responses of Saskatchewan and Alberta. Chapter 6 summarizes the major findings.

1.2 Limitations of the Study

In studying this policy field, one encounters a number of problems. First, this policy area involves an ongoing problem with changes still being made to legislation and policy. As a result, it was arbitrarily decided that in order to bring the study to a conclusion the description would end in May, 1982.

In terms of interviews, the omnipresent limitations of time, money, and location have restricted the scope of the interviews to Alberta alone. Interviews were conducted with the Associate Minister of Public Lands and Wildlife for the Alberta provincial government, the Director of the Foreign Ownership of Land Administration in Alberta, the Alberta provincial Social Credit Party and the New Democratic Party, the president of the Alberta division of the Housing and Urban Development Association of Canada, and the Executive Director of the Alberta division of the Urban Development Institute. All individuals were initially contacted by mail and all were

cooperative in granting interviews. The only exception was the spokesman from the Social Credit Party who granted only a telephone interview. All interviews were about an hour long and were limited to the general issue of alien and non-resident land ownership rather than a detailed discussion of the provincial legislation itself. The only exception was the interview with David Coombs, the Director of the Foreign Ownership of Land Administration. While this interview proved fruitful, the interviewee was unable to provide copies of the briefs submitted to him concerning the Agricultural and Recreational Land Ownership Act. All interviews were conducted in Edmonton during June 1979. The only exception was the interview with the Associate Minister of Public Lands and Wildlife which occurred in August, 1981 in Edmonton.

Another limitation of this thesis is it focuses on only three provinces. Quebec, New Brunswick, Newfoundland, Nova Scotia, and Prince Edward Island were omitted due to the limited amount of research material available (which included legislative debates, government documents and newspapers). On the other hand, one of the major factors for selecting Ontario, Saskatchewan and Alberta was the relative abundance of research material. It was also thought that these provinces might produce, amongst other things, a meaningful contrast. For example, the province of Ontario is heavily populated and industrialized. In contrast, Saskatchewan and Alberta are, though the mix is different, essentially agricultural and resource based provinces. They are governed by parties of different ideological persuasion (the NDP and Progressive Conservative parties respectively

for most of the period under consideration). By comparing these provinces, it was felt that one could better learn what impact these contrasting features had on generating or shaping legislation and policy on alien and non-resident land ownership.

This thesis is also limited in its study of the position and impact of the media. This is because only newspapers are studied - the impact of television and radio is omitted. As should be apparent, it is difficult to obtain proper documentation on the role of the electronic media in this issue.

Finally, in undertaking a study on controls adopted by provincial governments, it is necessary to provide a very general summary of the legislation and associated regulations. In this regard, a summary of the essential elements of the legislation or regulations is often provided in place of quoting the lengthy legal provisions. This summary may not provide an exact legal interpretation of the legislation or regulations. As such it is advised that the actual legislation or regulations be referred to when the exact legal wording is needed.

1.3 Definitions of Key Terms

A number of key terms require definition. The term "alien" or "foreign" refers to individuals who are not Canadian citizens or landed immigrants ordinarily resident in Canada and all corporations effectively controlled by such individuals. This definition is based on the Canadian Citizenship Act.

The term "non-resident" is used to refer to Canadian citizens or landed immigrants who could be said not to be ordinarily resident in the province in question. This term has been defined widely in the legislation passed by the various provincial governments in Canada. For example, in Saskatchewan, a "non-resident" is defined as an individual who does not reside in the province for at least 183 days of a year.[3] In Ontario, however, a "non-resident" is defined as an "individual who is not ordinarily in Canada, or is neither a lawful permanent resident nor a Canadian citizen ordinarily resident in Canada"[4] and includes controlled partnerships, syndicates, or trusts.

Finally, this thesis utilizes the Canada Land Inventory (CLI) to outline both land composition and the nature and degree of alien and non-resident land ownership in each province. This inventory categorizes soil into eight different classes according to growth capability (see Appendix 7.2).

NOTES

[1]R. Hobart and S. McFadyen, "The Economic Implications of Foreign Ownership of Canadian Land," in Public Property?, eds. L. Smith and M. Walker (Vancouver: The Fraser Institute, 1977), p. 179.

[2]Saskatchewan, Saskatchewan Farm Ownership Board, "A Background Paper on Federal Provincial Jurisdiction on Matters of Alien Land Ownership in Canada," by Catherine Neumeyer, September 1977; Idem, "Changes in Non-Resident Land Holdings 1976-79," by Catherine Neumeyer, undated; Idem, "Non-Agricultural Corporation Acreage Reduction," Prepared by Rose Olfert of Access Consulting Ltd., 1979; and Idem, "Provincial Policies Regarding the Purchase of Agricultural Land by Non-Residents and Corporations," undated.

[3]Saskatchewan, Saskatchewan Farm Ownership Board, "Provincial Policies Regarding the Purchase of Agricultural Land by Non-Residents and Corporations," undated.

[4]I. Schwartz, J. Burns and P. Hayden, eds., Foreign Investment in Canada: A Guide to the Law (Scarborough: Prentice-Hall of Canada, 1974), p. 76,351.

CHAPTER 2

THE CONSTITUTIONAL AND LEGAL FRAMEWORK FOR FEDERAL AND PROVINCIAL LEGISLATION ON ALIEN AND NON-RESIDENT OWNERSHIP OF LAND IN CANADA

This chapter examines the constitutional and legal framework for federal and provincial legislation on alien and non-resident ownership of land in Canada. Its principal theme is that both the federal and provincial governments have authority in varying degrees to legislate on matters dealing with alien and non-resident land ownership.

The constitutional and legal framework for controlling alien and non-resident land ownership is based on the British North America Act, now restyled the Constitution Act, and past decisions by the Judicial Committee of the Privy Council and Supreme Court of Canada. In the case of the federal government, the central legal provision is section 91(25) of the Constitution Act, which gives exclusive legislative authority to the Parliament of Canada in respect to matters relating to "naturalization and aliens."

The leading court case confirming this authority is Union Colliery Co. v. Bryden, 1899. In dispute was section 4 of British Columbia's Coal Mines Regulation Act, which provided that:

> . . . no boy under the age of twelve years and no woman or girl of any age, and no Chinaman, shall be employed in or allowed to be for the purpose of employment in any mine to which the Act applies, below ground.[1]

The Judicial Committee of the Privy Council in 1899 held that this provincial provision was ultra vires for the following reasons:

> Their Lordships see no reason to doubt that, by virtue of section 91, subsection 25, the Legislature of the Dominion is invested with exclusive authority in all matters which directly concern the rights, privileges, and disabilities of the class of Chinamen who are resident in the province of Canada. They are also of the opinion that the whole pith and substance of the enactments of Section 4 of The Coal Mines Regulation Act, insofar as objected to by the appellate company, consists in establishing a statutory prohibition which affects aliens or naturalized subjects, and therefore trench upon the exclusive authority of the Parliament of Canada. . . . The abstinence of the Dominion Parliament from legislating to the full limit of its powers, could not have the effect of transferring to any provincial legislature the legislative power which had been assigned to the Dominion by section 91 of the Act of 1867.[2]

While this decision suggests that provincial governments cannot pass legislation on alien and non-resident land ownership, provincial governments are not completely restricted. Significant here is section 92(13) of the Constitution Act, which gives exclusive authority to provincial governments in respect to property and civil rights in the province. The leading case confirming the scope of this authority is Morgan and Jacobson v. Attorney General of Prince Edward Island and Blacquiere in 1973 and the subsequent appeal case in 1975.

In dispute was the Prince Edward Island provincial government amending their Real Property Act in 1972 to provide that "non-resident persons or corporations, either foreign or Canadian wishing to take and hold more than 10 acres of land or 5 chains of shore frontage must obtain the prior approval of the Lieutenant

Governor in Council."[3] In 1973, two American citizens challenged this legislation in the Supreme Court of Prince Edward Island. The Court held that the statute fell within the provincial power over property and civil rights in the province and affected aliens only incidentally since its criteria applied to all non-residents of the province irrespective of nationality. It was not in pith and substance an attempt to invade federal jurisdiction. This decision was upheld by the Supreme Court of Canada in 1975.[4]

The provincial government's capacity to pass laws governing "property and civil rights" within the province also affects Canadian citizens. The scope of this section was considered in 1969 by the Supreme Court of Canada in Walter v. A.G. for Alberta.[5] In this case, a group of Hutterites challenged an Alberta statute which controlled the extent to which groups of persons could hold land on a communal basis. The statute, however, was held intra vires the Alberta legislature because it concerned property and civil rights, with no differentiation expressly made on the basis of residence or citizenship or alienage, and all who fell within the regulated groups were treated alike. As the court's judgement stated:

> It would seem to me to be clear that a provincial legislature can enact laws governing the ownership of land within the province and that legislation enacted in relation to that subject must fall within s. 92(13), and must be valid unless it can be said to be in relation to a class of subject specifically enumerated in s. 91 of the B.N.A. Act, or otherwise within exclusive Federal jurisdiction.
>
> There is no suggestion in the present case that the Act relates to any class of subject specifically enumerated in s. 91.[6]

As noted earlier, the central subject "specifically enumerated in s. 91" would be subsection 25: "naturalization and aliens."

Although legislation restricting the right of an alien to hold land appears to involve both property and civil rights and naturalization and aliens, if we use these phrases loosely, there is no possibility of applying the "double aspect" doctrine here.[7] As will be discussed in greater detail, subject to certain qualifications, the federal government's Citizenship Act states clearly in section 33 that aliens are given equal rights to hold land in Canada. Thus, in the event that provincial legislation restricting landholding by aliens is in direct conflict with federal legislation, it would appear that the federal government could over-rule this legislation under the doctrine of paramountcy.[8]

While it is clear that the federal government would also be competent to forbid grants of federal crown land to aliens under section 91(25), there is still the matter of provincial jurisdiction of provincial Crown lands. In the case of the provincial government, the central legal provision is section 92(5) of the Constitution Act. Two leading cases confirming this authority involved the British Columbia legislature enacting legislation "that licences to cut timber on Crown land should only be granted on conditions that no Chinese or Japanese [be] employed as labourers."[9] In Brooks-Bidlake v. A.G. for B.C., 1923, this law was attacked as an infringement of the federal power to make laws respecting naturalization and aliens, but the Privy Council upheld the Supreme Court of Canada in holding

that the legislation was not open to attack on this ground.[10] The courts took the view that the power to sell the public lands of the province conferred by section 92(5) necessarily implied the power to say to whom, and on what terms, the land should be sold. In a later judgement made in 1924, entitled Re Employment of Aliens, the Privy Council again upheld that such provincial legislation was not ultra vires on this ground.[11]

2.1 Federal Legislation on Alien Ownership of Land in Canada

As noted earlier, exercise of the federal government's power to legislate in relation to naturalization and aliens is seen in section 33 of the Citizenship Act which provides that:

> (a) real and personal property of every description may be taken, acquired, held and disposed of by a person who is not a Canadian citizen in the same manner in all respects as by a Canadian citizen; and
>
> (b) a title to real and personal property of every description may be derived through, from or in succession to a Canadian citizen.[12]

This legislation evolved originally from the Naturalization Act passed by the Parliament of Great Britain in 1870.[13] This section was later incorporated into section 4 of The Naturalization and Aliens Act passed by the Parliament of Canada in 1881.[14] Since then, the "provision has reappeared in all subsequent Canadian naturalization acts, and, with the substitution of 'Canadian citizen' for 'British subject' since the creation of a separate Canadian citizenship in 1946, it is the law of Canada today."[15]

2.1.1 The Foreign Investment Review Act

Perhaps the most controversial federal law dealing with the foreign acquisition of land is the Foreign Investment Review Act. This legislation "was passed in response to concern over the extent of foreign ownership of domestic enterprises and the resulting detrimental effects on the Canadian economy and society."[16] The act "provides for the review of takeovers of existing Canadian business enterprises or certain new business initiatives by non-eligible persons (including non-Canadians and corporations controlled by non-Canadians) to ensure that such activities offer significant benefits to Canada."[17] Its importance to land transactions in Canada results from its "broad definition of the term business as 'any undertaking or enterprise carried out in anticipation of profit'."[18] The institution responsible for administering the act is the Foreign Investment Review Agency.

In general, the act applies to "acquisitions of commercial rental properties, if the rentable area is 250,000 sq. feet or more and the price is $10 million or more; acquisitions of operating farms, except where the farm is leased back to a Canadian on terms under which the foreign purchaser has no control over the operations of the farm; and the acquisition of land or commercial properties where such assets represent all or substantially all of the assets of a business engaged in the purchase and sale or rental or real property."[19] In practice, however, provisions contained in the act have disallowed only a small number of real estate transactions.

According to published sources, of all takeovers reviewed during the period from April 9, 1974 to June 30, 1978, only two cases out of a total of twenty-five cases involving the acquisition of real estate were disallowed.[20]

Two factors account for the small number of cases disallowed. First, when the act was being formulated, provincial governments were allowed by the federal government to express their views to a House finance committee for the purpose of reconciling any differences of opinion as to the exact nature of the proposed act.[21] There was a wide variance of opinion amongst the provinces as to what direction the act should exactly take. These conflicting views likely limited the stringency and comprehensiveness of the enacted legislation since the federal government eventually decided "that provincial government attitudes would be an important factor in determining the scope of the government's policy."[22] This policy stance is seen in section 2(e) of the act which states that in assessing "whether any acquisition of control of a Canadian business enterprise or the establishment of any new business in Canada is or is likely to be of significant benefit to Canada,"[23] the federal government must take "into consideration industrial and economic policy objectives enunciated by the government or legislature of any province likely to be significantly affected by the acquisition or establishment."[24] "To ensure that these policies are appropriately considered during the review process, the Agency has established close working relationships ... with all provinces."[25] While ultimate responsi-

bility for decisions rests with the federal government, evidence indicates that provincial views are an important factor in some decisions.[26] In some cases, applicants have made direct representations to the provincial governments concerned.[27]

A second related factor that helps account for the low number of cases disallowed is the legal construction of the act. For example, it "is unlikely that the Foreign Investment Review Act is relevant to the purchase of recreational land inasmuch as recreation is purchased for personal use rather than in anticipation of profit."[28] Exceptions to this would include the acquisition of hunting or fishing lodges for commercial purposes.[29] With regard to farmland, purchases would first have to be considered as an acquisition of a business enterprise to be subject to review under the act. In the only reported proposal of this nature up to 1976, approval was given to Sparkford Estates Ltd. (British controlled) to acquire the Rocking Chair cattle ranch at Cawston, B.C.[30]

With regard to urban fringe land, considerable debate remains as to whether or not purchases of this type of land for development purposes may be determined as an acquisition of a business enterprise. According to Hobart and McFadyen no cases of this nature have been publicly reported and in their view, "if such acquisitions are subject to review, it is likely that they would provide significant benefit to Canada and thus be approved."[31]

Properties subject to review under the act include purchases of rental properties since the essential character and size of this

type of land deem it to be a business enterprise. However, given a ministerial statement in May 6, 1975 "that the acquisition of rental properties is compatible with the federal government objective of ensuring an adequate supply of rental accommodation at reasonable prices, it would appear that such transactions would in most cases be allowed."[32] Ironically, however, these provisions in the act may accentuate certain problems. As Hobart and McFadyen point out:

> . . . when such transactions are reviewable, the review procedure imposes higher costs on foreign development firms. These costs take the form of compliance costs, cost of uncertainty and possibly higher land costs because of the intervention of additional Canadian intermediaries. Whether or not these costs can be passed on to the consumer depends on the dominance of foreign firms in the particular city in question. In markets where foreign firms are sufficiently dominant, higher land prices to the Canadian consumer would result. In markets where Canadian firms play an important role, no price increases would generally be expected.[33]

2.1.2 The Canada Mining and Canada Oil and Gas Land Regulations

While the Constitution Act, and past decisions of the Judicial Committee of the Privy Council and Supreme Court of Canada provide both the federal and provincial governments with varying degrees of authority to legislate on matters dealing with alien land ownership, this authority may be extended indirectly in another way. Large areas of land in Canada are vested in the Crown. Some 40 per cent of Canadian land is owned by the federal government (mostly in the Yukon and Northwest Territories) while the provinces own 50 per cent of Canadian land.[34] Only 411,276 square miles of Canada's total land area of 3,851,809 square miles is in private hands.[35] It is this 10 per cent which gives rise to the greatest land use policy problems, since it corresponds to agricultural and urban areas.[36]

In terms of an alien's eligibility to be granted unappropriated Crown land in Canada, the first pertinent statute to deal with this issue was the federal government's Dominion Lands Act of 1908.[37] It "provided that grants of land for homesteads should only be made to British subjects, or to those who declared their intention of becoming British subjects."[38] The Dominion Lands Act has now been replaced by the Territorial Lands Act[39] and by the Public Lands Grants Act[40] which empower the federal government to dispose of Crown lands, and to make all sorts of regulations to do with this. In terms of the sale or lease of Crown land to aliens or non-residents, regulations have been promulgated under both acts which impose some limitations. Under the Territorial Lands Act there are the Canada Mining Regulations which apply only to the Northwest Territories.[41] These regulations provide that "mining leases in the Northwest Territories can only be granted to a Canadian citizen or to a qualifying corporation."[42] "To qualify, a corporation must be incorporated within Canada and must have at least 50 percent of its shares . . . owned by Canadian citizens."[43] Under the Public Lands Grants Act, there are the Canada Oil and Gas Regulations which closely parallel the Canada Mining Regulations but apply both to the Northwest Territories and the Yukon. Since foreign land ownership is not a serious problem in the two territories, both regulations seldom have to be exercised. Indicative of this situation is the fact that foreign interests hold only 0.0005 per cent of the Yukon land area and 0.0008 per cent of the Northwest Territories area under title, and 0.0005 per cent of the Yukon and 0.012 per cent of the Northwest Territories under lease or agreement of sale.[44] The only significant

concern about alien ownership is centered around recreational lands since these are at a premium in the Territories.[45] Under these circumstances, the territorial power to issue business licenses could, to a certain extent, be used to regulate foreign or non-resident use of land, but there is no evidence that the power has been applied in this way.[46]

2.2 Provincial Legislation on Alien and Non-Resident Ownership of Land in Canada

Prior to The Citizenship Act being proclaimed in 1977, the federal government had in operation similar legislation entitled the Canadian Citizenship Act. Section 24 of the old act provided aliens "with the same rights as Canadian citizens in regards to the acquisition, holding and disposal of real property. Exceptions to this right would of course include acquisitions which are covered under the provisions of the Foreign Investment Review Act."[47] This situation became qualified with the introduction in 1976 of the new Citizenship Act (which was proclaimed in force on February 17, 1977).[48] Section 33 of the new act, which replaces section 24 of the old act, permits a province to restrict the sale of land to aliens separately from residents in other provinces "provided that such provincial legislation does not conflict with certain stipulated authority remaining under the domain of the federal government."[49] As section 33(2) of The Citizenship Act states:

> The Lieutenant-Governor in Council of a province . . . is authorized, subject to subsection (6), to prohibit acquisition directly or indirectly of, or in succession to, any interest in real property located in the province by persons who are not Canadian citizens or by corporations or associations that, in the opinion of the Lieutenant-Governor in

> Council or other person or authority so designated, are effectively controlled by persons who are not Canadian citizens.[50]

Similarly, section 33(3) of the new Act states that:

> The Lieutenant-Governor in Council of a province may make regulations applicable in the province for the purpose of determining:
>
> (a) what transactions constitute a direct or an indirect taking or acquisition of an interest in real property located in the province;
>
> (b) what constitutes effective control of a corporation or association by persons who are not Canadians;
>
> (c) what constitutes an association.[51]

Notwithstanding the meaning and intent of the foregoing sections, there are specific restrictions on provincial authority.[52] Significant here is subsection (6) of section 33 which states that:

> Subsections (2) and (3) do not operate so as to authorize or permit the Lieutenant-Governor in Council of a province or other person or authority as is designated by the Lieutenant-Governor in Council thereof to make any decision or take any action that:
>
> (a) prohibits and annuls or restricts the taking or acquisition directly or indirectly of, or in succession to, any interest in real property located in a province by a landed immigrant ordinarily resident in Canada;
>
> (b) conflicts with any legal obligation of Canada under any international law, custom or agreement;
>
> (c) discriminates as between persons who are not Canadian citizens on the basis of their nationalities, except in so far as more favourable treatment is required by any legal obligation of Canada under any international law, custom or agreement;
>
> (d) hinders any foreign state in taking or acquiring real property located in a province for diplomatic or consular purposes, or

(e) prohibits and annuls or restricts the taking or acquisition directly or indirectly of any interest in real property located in a province by any person in the course or as a result of an investment considered and allowed by the Governor in Council under the Foreign Investment Review Act.[53]

In practice, Alberta is the only province to pass restrictive legislation under these new provisions.

Two factors likely contributed to these amendments. The first includes the establishment in 1973 of a federal-provincial committee on foreign ownership of land. This committee involved the federal government and provincial governments and comprised "officials selected from departments connected with land administration, justice and intergovernmental affairs and offices of the First Ministers."[54] In its final report in 1975, the committee suggested that there was a consensus of both the federal and provincial governments that this constitutional area was still unsettled and that an amendment to the Citizenship Act delegating certain administrative authority to the provinces from the federal government would settle any remaining uncertainties in this field. A second likely motivating factor for these amendments in 1976 was the two Supreme Court decisions in 1973 and 1975 which upheld legislation by the province of Prince Edward Island. As noted earlier, the legislation was upheld since the province's legislation fell within the provincial power over property and civil rights in the province and affected aliens only incidentally since its criteria applied to all non-residents of the province irrespective of nationality.

However, after the proclamation of the The Citizenship Act in 1977, the federal government was to reconsider this area. In June 1978, it introduced a draft Constitutional Amendment Bill (Bill C-60) for discussion purposes. In order to obtain the views of the provincial governments, two First Ministers' Conferences on the Constitution were held but no significant agreement was reached. This resulted in Bill C-60 receiving only first reading in Parliament. Of special relevance to the issue of non-resident land ownership was section 8 of the bill which provided that Canadian citizens and landed immigrants had:

> the right to acquire and hold property in, and to pursue the gaining of a livelihood in, any province or territory of Canada;
>
> subject to any laws of general application in force in that province or territory but in all other respects subject only to such limitations on his or her exercise or enjoyment of those rights as are reasonably justifiable otherwise than on the basis of the place of his or her residence or domicile, previous residence or domicile, or birth.[55]

This provision evoked strong provincial opposition since the provision prevented provinces from enforcing restrictions on non-resident land ownership.[56] For example, Liberal Senator Hazen Argue of Saskatchewan stated just prior to the First Ministers' Conference on the Constitution that Saskatchewan's non-resident farm ownership laws would be invalidated by this provision.[57] Argue was also a member of the Constitutional Committee of the Senate and he noted that leading constitutional lawyers had agreed with his interpretation.

Further initiatives by the Liberal government were thwarted temporarily since they lost the federal election in 1979 and were not returned until February, 1980. Prime Minister Trudeau and the ten premiers would once again undergo negotiations at the committee level on a number of constitutional proposals including property rights during the summer of 1980.[58] At the discussions, provinces again expressed concern that the federal government would gain effective control in this area. In response to this concern, Justice Minister Jean Chretien stated in a speech to the National Press Club in August, 1980, that restrictions by provincial governments could be based on something other than place of residence.[59] As Chretien argued, "when a province legislates to curb land speculation or absentee ownership of agricultural land, that legislation should apply equally to the rich lawyers from within the province and to real estate companies from outside the province."[60] In Canada, the only province to implement that principle in part was the New Democratic Party provincial government in Manitoba in 1977. The relevant act was The Farm Lands Protection Act. The intent of this act was twofold: "to restrict the acquisition of land, over a certain acreage, by persons or corporations that are not resident Canadians, and also to restrict the acquisition of land, over a certain acreage, by resident Canadians who are not farmers."[61] The basic provisions of this act were amended in 1978 when the Progressive Conservatives won power.

To further dampen provincial opposition, Chretien promised in 1980 that Ottawa would offer the provinces written guarantees that provisions such as section 8 "would not enlarge federal powers and

would not restrict provinces from making policy affecting only their citizens."[62] In new constitutional proposals introduced by the federal government in October, 1980, the federal government went further than Chretien's promise by withdrawing section 8. The federal government maintained this change of policy in its final constitutional package which was proclaimed on April 17, 1982 - the Constitution Act. Included with the new constitution was a Canadian Charter of Rights and Freedoms. Since the new charter contains no guarantee or reference to property, it would not seem to affect federal and provincial rights to legislate on alien and non-resident land ownership.[63]

2.3 Limitations Imposed by International Relations

Under international law, Canada is free to restrict foreign ownership of land subject to two limitations. The first limitation arises from the international rules regarding nationalization or expropriation of assets of aliens. Basically, this refers to the fact that once a property has been acquired by an alien, Canada would be prevented under international law from divesting the alien's property unless proper compensation was made. The second limitation imposed by international relations involves treaties entered into by Canada. Basically, this refers to the fact that restrictive legislation on alien land ownership "could give rise to objections on the part of countries to which our treaties provide 'most favoured nation' treatment."[64] A federal-provincial document on this issue notes that these countries would include "France, Poland, Columbia,

Spain, Switzerland, and perhaps Sweden, Denmark, Argentina, Venezuela and Peru."[65] In the case of the United States, the report notes that "there is no treaty in force between Canada and the U.S.A. which would limit our right under general international law to regulate or prohibit a U.S. citizen from acquiring land in Canada."[66] In terms of political limitations, Canada could not likely pass restrictions which imposed differential treatment to aliens on grounds of their nationality. If this occurred, criticism would likely arise in the international community and "inevitably create problems with the countries whose citizens are discriminated against."[67]

2.4 Conclusion

From the foregoing analysis, it becomes apparent that both the federal and provincial governments have authority in varying degrees to legislate on matters dealing with alien and non-resident land ownership. Section 91(25) of the Constitution Act gives the federal government the exclusive authority to legislate in relation to aliens. Relevant legislation passed under this authority includes the federal government's Foreign Investment Review Act. In practise, only a small number of real estate transactions have been disallowed under this act. The federal government has also passed regulations under the Territorial Lands Act and the Public Lands Act which places restrictions on the sale or lease of federal Crown land. Since foreign land ownership is not a problem in the Yukon and Northwest Territories (where most federal Crown land is located), these regulations have also been seldom exercised.

In terms of provincial authority, section 92(13) of the Constitution Act provides provincial governments with exclusive authority to legislate in relation to property in the province. Under this authority, various provinces have found it possible to restrict the sale of land to non-residents, either foreign or Canadian - as long as the law applies equally to both foreigners and Canadians alike. Through the proclamation in 1977 of the federal government's new Citizenship Act, section 33 of the act permits provinces also to restrict the sale of land to aliens separately from residents in other provinces. In practice, Alberta is the only province to pass restrictive legislation under these new provisions. Section 92(5) of the Constitution Act, which deals with "the management and sale of public lands belonging to the province," also provides provincial governments with exclusive authority to forbid grants of provincial Crown land to aliens.

NOTES

[1]As quoted in E. J. Arnett, "Canadian Regulation of Foreign Investment: The Legal Parameters," Canadian Bar Review 50 (1972):214.

[2]As quoted in Alberta, Select Committee on Foreign Investment, Interim Report on Public and Private Lands and Supplementary Report (Edmonton: Queen's Printer, 1972), Appendix E, p. 2.

[3]Canada, Federal-Provincial Committee on Foreign Ownership of Land, Report to the First Ministers (Ottawa: Information Canada, 1975), p. 15.

[4]Ibid.

[5]As quoted in John Spencer, "The Alien Landowner in Canada," in Foreign Investment in Land - Alternative Controls, ed. Peter Horwood (Vancouver: University of British Columbia, 1976), p. 121.

[6]Ibid. p. 108.

[7]The "double aspect" doctrine acknowledges that some laws have both a federal and provincial "matter" and it is therefore competent for both governments to legislate in this area. For a further elaboration of the "double aspect" doctrine concept see Peter W. Hogg, Constitutional Law of Canada (Toronto: The Carswell Company Limited, 1977), pp. 84-85.

[8]Where there are valid but inconsistent federal and provincial laws, the doctrine of paramountcy adopted by the courts has it that it is the federal law which prevails. For a further elaboration of this concept see Hogg, Constitutional Law of Canada, p. 101.

[9]Spencer, "The Alien Landowner," p. 126.

[10]As referred to in Select Committee on Foreign Investment, Interim Report on Public and Private Lands, Appendix E, p. 7.

[11]As referred to in Spencer, "The Alien Landowner," p. 126.

[12]As quoted in Canada, Department of Industry, Trade and Commerce, Foreign Investment Review Agency, Selected Readings in Canadian Legislation Affecting Foreign Investment in Canada, Part I: Federal Laws and Regulations as of October 1977 (Ottawa: Minister of Supply and Services Canada, 1977), p. 15.

[13]As referred to in Spencer, "The Alien Landowner," p. 103. Section 2 of the Naturalization Act provided that "real and personal property of every description may be taken, acquired, held, and

disposed of by an alien in the same manner in all respects as by a natural-born British subject; and a title to real and personal property of every description may be derived through, from, or in succession to an alien, in the same manner in all respects as through, from, or in succession to a natural-born British subject." Ibid.

[14]Lincoln W. North, Foreign Investment in Canadian Real Estate (Montreal: The Research and Development Fund, Appraisal Institute of Canada, 1977), p. 7.

[15]Spencer, "The Alien Landowner in Canada," p. 103.

[16]J. M. Morse, "Legal Structures Affecting International Real Estate Transactions," in American University Law Review 26 (1976-77): 62-3. For further reading on the formulation and administration of this act, see especially A. K. Calvert and M. A. Crener, "Foreign Business Control: The Canadian Experience 1973-1977," in Canadian Public Administration 22 (Fall 1979): 415-438; T. Franck and K. S. Gudgeon "Canada's Foreign Investment Control Experience. The Law, the Context and the Practice," in New York University Law Review 50 (1975): 76-146; W. H. Espinosa "The Canadian Foreign Investment Review Act: Red, White and Gray," in Law and Policy in International Business 5 (1973): 1018-1041; W. H. Bonney, "Foreign Investment Review Act," Alberta Law Review, 13 (1975): 83-89; and J. D. A. Jackson and R. A. Donaldson, "The Foreign Investment Review Act: An Analysis of the Legislation," Canadian Bar Review, 53 (1975): 171-236.

[17]R. Hobart and S. McFadyen, "The Economic Implications of Foreign Ownership of Canadian Land," in Public Property? eds. L. Smith and M. Walker (Vancouver: The Fraser Institute, 1977) p. 197. In discusssing this piece of legislation, it is also important to clarify the term "non-eligible person." The Act defines a non-eligibile person as (1) neither a Canadian citizen nor landed immigrant; (2) a landed immigrant who has been resident in Canada for more than one year after he is eligible for Canadian citizenship; (3) an ordinarily non-resident Canadian citizen who has applied for citizenship in another country; (4) a Canadian citizen who has been ordinarily resident outside Canada for five or more consecutive years; (5) a foreign government or foreign government agency; and (6) a corporation that is controlled by a non-eligible person or persons. For purposes of the Act, a corporation is presumed to be a non-eligible person if (1) any one non-eligible person owns 5 percent or more of its voting shares; (2) 25 percent or more of the voting rights are owned by non-eligible persons in the case of a public corporation or (3) 40 percent of more of the voting rights are owned by non-eligible persons in the case of a private company. Corporations may, however, rebut these presumptions if they can prove

that effective control is in the hands of Canadians. R. Hobart and S. McFadyen, "Federal Legislation on Foreign Ownership: Foreign Investment Controls and Real Estate" in Foreign Investment of Land Alternative Controls, ed. Peter J. Horwood (Vancouver: University of British Columbia, 1976), p. 43.

[18]Hobart and McFadyen, "Federal Legislation," p. 44.

[19]Canada, Department of Industry, Trade and Commerce, Foreign Investment Review Agency and Analysis Branch, A Comparison of Foreign Investment Controls in Canada and Australia, No. 5 (Ottawa: Minister of Supply and Services Canada, 1979), p. 11.

[20]See Hobart and McFadyen, "Federal Legislation," p. 47, and Department of Industry, Trade and Commerce, A Comparison of Foreign Investment, p. 16.

[21]See, Canada, House of Commons, Minutes of Proceedings and Evidence of the Standing Committee on Finance, Trade and Economic Affairs, 4th Session, 28th Parliament, 1972, Issue 20-23.

[22]R. D. Gualtieri "Canada's New Foreign Investment Policy," New York University Law Review 50 (1975): 60-61.

[23]Foreign Investment Review Act, Statutes of Canada 1973, c. 46.

[24]Canada, Department of Industry, Trade and Commerce, Foreign Investment Review Agency, Annual Report 1975/76 (Ottawa: Minister of Supply and Services, 1976), p. 9.

[25]Ibid. Jackson and Donaldson note: "... in the case of the acquisition by Babcock & Wilcox Refractories Limited of Holmes Insulations Limited, provincial representations were apparently made in that concern was expressed over the possible detrimental effects which a rejection would have on employment. In the case of the acquisition by Canadian Blue Bird International Inc. of J. H. Corbeil Ltee announced on December 23, 1974, it was apparent that the Quebec government was primarily responsible for the reversal of an earlier decision of the Cabinet not to allow the proposed acquisition." Jackson and Donaldson, "The Foreign Investment Review Act," p. 214.

[26]Foreign Investment Review Agency, Annual Report 1975/76, p. 9.

[27]Jackson and Donaldson, "The Foreign Investment Review Act," pp. 213-214.

[28]Hobart and McFadyen, "The Economic Implications," p. 198.

[29]Idem, "Federal Legislation," p. 47.

[30]Idem, "The Economic Implications," p. 199.

[31]Ibid.

[32]Hobart and McFadyen, "Federal Legislation," p. 51.

[33]Idem, "The Economic Implications," p. 199.

[34]Spencer, "The Alien Landowner," p. 123.

[35]Ibid.

[36]Stockholm Seminar on Land Use Policies, Land Use Policy in Canada: A National Profile, Report 12-17 June 1978, p. 102.

[37]As referred to in Spencer, "The Alien Landowner," p. 123.

[38]Ibid.

[39]Territorial Lands Act, Revised Statutes of Canada 1970, c. T-6.

[40]Public Lands Grant Act, R.S.C. 1970, c. P-29.

[41]Federal-Provincial Committee on Foreign Ownership of Land, Report to the First Ministers, p. 24.

[42]Department of Industry, Trade and Commerce, Selected Readings, Part I: Federal Laws, p. 121.

[43]Ibid.

[44]Federal-Provincial Committee on Foreign Ownership of Land, Report to the First Ministers, p. 12.

[45]Ibid.

[46]Ibid., p. 24.

[47]North, Foreign Investment, p. 10.

[48]Department of Industry, Trade and Commerce, Selected Readings, Part I: Federal Laws, p. 13. Secretary of State, John Roberts, stated that the delay in proclaiming the act was due to the fact that the government was experiencing problems drafting the regulations and translation. Canada, House of Commons Debates, November 6, 1976, p. 888.

[49]Federal-Provincial Committee on Foreign Ownership of Land, Report to the First Ministers, p. 15.

[50]The Citizenship Act, S.C. 1974-75-76, c. 108, s. 33(2).

[51]Ibid. s. 33(3).

[52]North, Foreign Investment p. 11.

[53]The Citizenship Act, S.C. 1974-75-76, c. 108, s. 33(6).

[54]Federal-Provincial Committee on Foreign Ownership of Land, Report to the First Ministers, p. 2.

[55]Canada, House of Commons, Constitutional Amendment Act, Bill C-60, June, 1978.

[56]See, for example the Western Producer, September 4, 1980; Calgary Herald, October 3, 1980; and the Regina Leader Post, August 9, 1978.

[57]Regina Leader Post, August 9, 1978.

[58]Canada, The Constitution and You (Ottawa: Minister of Supply and Services Canada, 1982), p. 31; Calgary Herald, April 19, 1983.

[59]Western Producer, September 4, 1980.

[60]Ibid.

[61]Canada, Department of Industry, Trade and Commerce, Foreign Investment Review Agency, Selected Readings in Canadian Legislation Affecting Foreign Investment in Canada, Part II: Provincial Laws and Regulations as of November 1977 (Ottawa: Minister of Supply and Services Canada, 1978), p. 207.

[62]Western Producer, September 4, 1980.

[63]In 1981, the Liberal government temporarily decided to include again the entrenchment of property rights in the constitution. However, due to provincial government opposition as well as other representations made to the Special Joint Committee of the Senate and House of Commons, this proposal was removed in the summer of 1981. In April 1983, the Prime Minister once again proposed entrenching property rights in the constitution but this proposal was also dropped due to continued provincial opposition. For a discussion of these events see The Financial Post, May 9, 1982; Edmonton Journal, January 23, 1983, February 26, 1983, April 19, 1983 and; Calgary Herald, April 19, 1983, April 20, 1983.

[64]Federal-Provincial Committee on Foreign Ownership of Land, Report to the First Ministers, p. 33.

[65]Ibid.

[66]Ibid.

[67]Ibid, p. 33.

CHAPTER 3

POLICY-MAKING IN ONTARIO

This chapter investigates Ontario's response to the problem posed by alien and non-resident land ownership. In so doing, it shows that government restrictions on alien and non-resident land ownership were responses to economic problems. These problems include inflation and declining land availability which are attributed to increasing foreign ownership of Ontario land. This chapter also shows that the Progressive Conservative provincial government reduced the restrictiveness of the legislation and policy during the late 1970s in response to declining investment and growth in Ontario's economy.

To explain Ontario's policy on alien and non-resident land ownership both before and after 1970, it is necessary to outline briefly the position of the Ontario Progresssive Conservative party on foreign investment. That political party has governed Ontario since 1943 and under its auspices, foreign investment was encouraged and welcomed.[1] As Premier between 1961 and 1971, John Robarts frequently spoke publicly in favour of foreign investment. In 1970, for example, he stated several times that he was "not frightened by the presence of foreign capital in Canada"[2] while Minister of Trade and Development, Stanley Randall, rejected nationalists as "yahoos" and "economic illiterates."[3] On May 14, 1970, the PC government also

voted against a Liberal amendment that would have denied the annual tax rebate to American and alien cottage owners under the Residential Property Tax Act.[4] The party's favourable view of foreign investment continued under Premier William Davis. During the October 1971 Ontario provincial election, for example, he argued that "Ontario's economy would suffer if the provincial government established such control mechanisms as a licensing board to regulate and control the sale of companies to foreign investors."[5] He stated "the result would be that venture capital would then go elsewhere in Canada where such restrictive measures did not exist."[6] In 1975, a similar argument was made on the impact of the federal Foreign Investment Review Act when Provincial Treasurer, William McKeough, argued that "the public wants stability in the economic environment and that . . . to move too fast in this area at this time would be risky."[7] provincial Treasurer, Frank Miller, in his May 13, 1982 Budget Statement perhaps indicated best the prevailing PC party position on this issue when he remarked:

> We believe that private investment from both domestic and foreign sources will be required to create the large number of new jobs that our people need. Therefore, our national policy should be carefully tailored to encourage productive investment from all sources. Canadianization should be a longer-term goal that does not have features which are seen by international investors as unfair.[8]

3.1 The Sale and Lease of Public Lands

The government's support for foreign investment is also

manifest in the absence of any restrictions on alien and non-resident land ownership prior to the 1970s. However, in the early 1970s there were some issues on which the government seemed willing to respond to a growing tide of economic and cultural nationalism in the province.[9] For example, Minister of Financial and Commercial Affairs, Bert Lawrence sponsored a bill in 1970 "that limited foreign ownership of provincially incorporated loan and trust companies to 25 per cent of the voting stock."[10] In terms of land, the government's first effort under Premier Davis came as a result of a 1970 study conducted by the Department of Lands and Forests (now the Ministry of Natural Resources) on the desirability of a change in Crown land policy.[11] An earlier 1965 study by the Ontario Department of Highways indicated that in 1964 12 per cent of the cottage owners in Ontario were from the United States.[12] Following the presentation of the 1970 report, the government announced in its 1971 Speech from the Throne that government policy on Crown land would be changed "to further preserve our heritage."[13] The new regulations entitled, the Sale and Lease of Public Lands regulations, were passed pursuant to The Public Lands Act on June 3, 1971. Section 8 of these regulations provided that the sale of Crown cottage lots for private use be prohibited while section 12 provided that Crown cottage lots could only be leased to persons who were Canadian citizens or landed immigrants for a period of one year after the lots were registered with a subdivision plan and made available to Canadian citizens and landed immigrants.[14] In 1972, 88 per cent of Ontario's total land area was under the administration and control of the Ontario

provincial government as Crown land.[15] Lands alienated to private ownership (mainly for agricultural settlement) constituted only 11.03 per cent of the province's total land area. This land is principally confined to the southern part of the province. The remaining 0.87 per cent or 3,587 square miles is under federal control. Prior to 1971, the Ontario government, through the Department of Lands and Forests, "patented Crown land for cottage lot purposes to both Canadians and non-Canadians."[16]

Another initiative distinguishing Premier Davis's administration from the Robart administration was his decision to hold a conference on Economic and Cultural Nationalism in June, 1971. This conference led the government to undertake a series of studies on the issue of alien and non-resident land ownership. The first such study was prepared by civil servants and was entitled the Report on the Interdepartmental Task Force on Foreign Investment.[17] Published in December 1971, the report concluded that the provincial government likely only had authority to prevent the sale of Crown land to foreigners.

3.2 The Select Committee on Economic and Cultural Nationalism

Premier Davis reacted cautiously to the report. He first appointed a select committee of the legislature to review it and "the current status of opinion and information on economic and cultural nationalism in Canada, and to prepare a preliminary report by March 1, 1972."[18] The committee comprised the Deputy Speaker, as Chairman,

six Progressive Conservative M.L.A.s and two M.L.A.s from the Liberal and NDP parties.[19] The select committee advertised for briefs and presentations and held public hearings in Toronto, Ottawa and Sudbury during January 1972 and February 1972. When the committee completed its preliminary report in March 1972, it included a recommendation calling for the immediate study of recreational land and its availability to Canadians. Since no agricultural "or" recreational land related interest group submitted briefs or participated at the public hearings, it is difficult to assess the impact of other interest groups or individuals on this recommendation. As can be seen in Appendices 3.10.1 and 3.10.2, the preliminary report addressed various economic sectors and received briefs from many groups including the Ontario Federation of Labour, publisher and president of McClelland and Stewart Ltd., J.G. McClelland, former federal Minister of Finance, Walter Gordon, and former federal Minister of Communications, Eric Kierans.

The Select Committee submitted an interim report in October, 1973 entitled "Foreign Ownership of Ontario Real Estate."[20] Prior to the report, the committee had held further meetings with businessmen and government officials in Toronto, New York and several European countries (see Appendix 3.10.3) However, like the preliminary report, the committee was also studying a number of other areas, including the advertising industry and colleges and universities.[21] While many groups and individuals appeared before the committee during this 1972-73 period, there was only limited formal participation by land related interests (i.e. the Canadian

Institute of Public Real Estate Companies and the Ontario division of the Urban Development Institute).

The committee observed some public concern about recreational land. In particular, arguments were provided to the committee that "non-Canadians with superior financial resources, have readier access to prime recreational land, making it less available to Canadians."[22] Other submissions indicated that foreign ownership of recreational land reached 90 per cent in some localities, while it is insignificant elsewhere.[23] A major source of this non-Canadian demand seemed to come from those American states close to Ontario.

While the magnitude of foreign ownership of urban land was not precisely known, it was judged to be considerable. For example, "representatives of the Urban Development Institute estimated before the committee that [approximately] 50 per cent of the developable land in Zone 1 of the Toronto Centre Region [was] owned by foreign-owned developers."[24] Among foreign investors, the committee concluded that European, Japanese and American interests were the most prominent. Overall, the committee estimated that foreign commercial ownership of real estate in Ontario amounted to several billions of dollars and was "increasing annually."[25]

To deal with such ownership, the committee outlined twenty recommendations in the study (see Appendix 3.10.4). Most important was the proposal "that all future transfers to individuals of legal interests in real property in Ontario be restricted to Canadian citizens and landed immigrants in Canada, with others only being

allowed to lease such property for a maximum period of one year."[26] All future acquisitions of land in Ontario, other than by individuals, would be restricted to corporations or ventures not less than 75 per cent owned by Canadian citizens or landed immigrants resident in Canada; other corporations or venture would be entitled to obtain leasehold interests only.[27] The committee claimed that such proposals were within the constitutional competence of the province. However, as discussed in Chapter 2, to implement legislation in 1974 to exclude only aliens could conceivably have intruded upon federal powers under the BNA Act, now the Constitution Act.

3.3 The Land Speculation Tax Act, 1974 and The Land Transfer Tax Act, 1974

Legislation was not forthcoming until 1974 when Bill 25, The Land Speculation Tax Act, 1974 and Bill 26, The Land Transfer Tax Act, 1974 were introduced. In his budget address, the Provincial Treasurer, John White, stated that the land speculation tax had two objectives:

- to reduce the escalation of land and housing prices and;
- to recover for the public a major share of windfall gains from land speculations.[28]

In defending the land transfer tax, the Treasurer referred to large-scale acquisitions of land by non-residents as a major determinant of "the problem of rapidly rising prices for real property in Ontario."[29] As lawyer Ted Walden later elaborated:

> In 1973 and 1974, Ontario had experienced a tremendous escalation in housing prices, particularly in the major urban centres such as Toronto. Houses selling for $50,000 were being bought and then resold within two or three weeks for $60,000. At the same time, the price of commercial land in major urban centres was escalating rapidly. It had levelled off in Toronto in 1971-72 at about $100 a square foot for a coverage of twelve times the area of the lot, but the rates suddenly began to rise again, reaching levels as high as $200 per square foot.[30]

One factor likely contributing to this escalating inflation was the coming into effect of Phase I of the federal Foreign Investment Review Act on April 9, 1974. As Walden explained: "the suggestion was that foreigners were trying to invest in advance of passage of the act, and that their increased demand had driven up the price of urban, commercial land."[31] The president of the Urban Development Institute presented this same argument to a committee of the House of Commons on June 14, 1973.[32] In terms of the Ontario government's response to this problem, the Treasurer stated that the government recognized that positive action on this matter was required "in order to maximize Canadian ownership of our real estate."[33] For both acts, however, the Treasurer stressed it was not the government's intention to penalize or discourage industrial, commercial or residential development in the province.

The land speculation tax which went into effect on April 10, 1974, imposed an additional 50 per cent tax on the increase in value realized on the sale of designated land by residents and non-residents.[34] Over and above this tax, normal personal and corporate income taxes applied. This tax was intended to bear most

heavily on owners of land and properties which were purchased and resold without any real value being added. There were, however, a large number of exemptions under the act. These included "a person's principal residence or principal recreational property, transfers to the Crown or a Crown agency, transfer by or to a municipality or a charitable organization, expropriations of land, [and] transfers of land used for industrial or commercial purposes, other than apartment buildings, that includes buildings and improvements worth at least 40 per cent of the property sold."[35]

The Land Transfer Tax Act, 1974, also effective on April 10, 1974, increased the land transfer tax on purchases of land by non-residents of Canada to 20 per cent of the value of the consideration paid for the conveyance. The additional tax could be deferred, cancelled, or rebated at the Minister's discretion and with the approval of the Lieutenant Governor in Council, when vacant land bought by a non-resident was sold to Canadians in the form of housing or developed commercial premises. Until April 9, 1974, the primary purpose of the land transfer tax was to collect revenue for the Province of Ontario on the registration of conveyances of land.

Separate regulations were established to administer the two acts. For the land speculation tax there is Regulation 194/75, Delegation of Authority of the Minister while for the land transfer tax there is Regulation 191/75, Delegation of Authority of the Minister.[37] Both regulations grant powers to the Ministry of Revenue.

While the Liberal and NDP parties supported the main objective of taxing speculators, problems with the construction of the acts caused the two parties to oppose them. In the case of the land speculation tax, lengthy debate occurred during May, 1974. Liberal M.L.A. and finance critic, James Breithaupt, stated that the act "comes with as many holes as Swiss cheese" and added that "there appears to be no mechanism to prevent this tax from being passed on to the home buyer."[38] The problem of a tax being readily passed on to a consumer was also noted by Liberal Leader Robert Nixon as a major fault of the land transfer tax.[39] As such, he argued that the act would not be successful in prohibiting alien land ownership. Nixon had made an earlier request, in March 8, 1974, that the government reduce the incentive to speculate on land by applying a steep rate of tax to windfall gains made on land sales.[40] Such a request may have provided added impetus for the Tory government to introduce their own two acts a month later.

NDP Leader Stephen Lewis stated that his party opposed both bills since "neither of them make any significant contribution to the problems they are allegedly designed to alter, or to correct fundamentally."[41] As Lewis expressed it:

> . . . The use of taxation policy is normally a revenue-gathering use. It is normally a device for redistributing income, for reapportioning wealth, for budgetary and fiscal matters. The use of tax policy is the central fiscal device which the government has. It is not an appropriate instrument for the implementation of a social policy of this kind. It isn't appropriate in this bill and it isn't appropriate in the land speculation tax bill.[42]

Lewis argued that "housing prices would continue to climb out of the reach of the majority of Ontario residents"[43] adding that "until the government is willing to buy up land and build on it, prices will continue to rise."[44] Paradoxically, like the Liberals, the NDP proposed taxation measures to control land speculation during the 1971 Ontario provincial election.[45] The Provincial Treasurer, John White, defended Ontario's response when he explained, "the matter of control of non-resident ownership of Canadian land is a current constitutional issue which has not been fully resolved . . . the government has decided, therefore, to take interim steps using the instruments at its disposal."[46]

Interest groups generally reacted positively to the two new acts. For example, Maurice Park, president of the Toronto Real Estate Board stated that his group was very pleased with the government's "'brave' attempt to slow down the inflationary spiral in new housing costs."[47] In terms of the new land speculation tax, Lawrence Shankman, president of Consolidated Building Corporation stated that "'it looks like a good thing' that could make serviced land available at a better price."[48] Similarly, Arthur Armstrong, president of a major real estate company, Bramalea Consolidated Developments Ltd., stated that the new land speculation tax "should help curtail the rising price of unimproved land of which we are a major purchaser."[49] Donald Kirkup, research director of A. E. LePage of Toronto stated that he did "not expect the speculative tax to hurt too many people because housing prices 'are at the point of levelling out.'"[50]

On the other hand, David Crombie, then Mayor of Toronto argued that the 50 per cent tax on land speculation was not high enough to control downtown speculators since the act allowed landowners to avoid the tax if they spent 20 per cent of the cost improving the property. In this situation, he argued "a house could be bought relatively cheaply, [be] partly renovated and [be] sold for twice the price."[51] On the other hand, the land speculation tax discouraged land developers from selling their lots to builders who were usually more capable of constructing houses. The effect of the act in this situation would be to diminish the number of building lots available in the province and thus to increase the price of housing. Not surprisingly, this aspect of the act was criticized by such groups as the Toronto Home Builders, the Toronto Real Estate Board and the Ontario division of the Urban Development Institute.[52] In response section 21 was added to the bill to provide for a cancellation of the tax under defined circumstances. Those circumstances involve the sale of subdivided, serviced land to a builder who agrees to commence construction on the property within 18 months. Where this agreement is made, the subdivider ceases to be responsible for payment of the tax, resulting from the disposition, but the builder must assume responsibility for the tax until he complies with this agreement to commence construction. When he complies with the agreement, the tax is cancelled.

Editorial comment in newspapers was mixed. The Hamilton Spectator stated that "housing prices should benefit within a few

years from the new 50 per cent tax"[53] incorporated under the land speculation tax. The Globe and Mail viewed new measures contained in the government's 1974 budget as a "change to meet change".[54] The Ottawa Citizen supported the legislation and claimed that a land speculation tax was long overdue. It also argued that "there should be no hesitation in increasing the tax if it doesn't get results."[55] But the Ottawa Journal wondered whether the two bills would "have an impact on the rising price of housing."[56] The editor was concerned that the two acts might be self-defeating by increasing "costs still further by passing some of the tax load on to purchasers."[57] The Toronto Star echoed this concern when it argued that "rather than deal with the central issue of ownership, the budget talks only of price. It's entirely possible that land attractive enough to foreign eyes will be purchased anyway, regardless of the tax."[58]

Other responses to the bills indicate possible political motivations behind the government's initiatives. For example, the Ottawa Journal asked: "Is the Davis government merely extending its fabled pragmatism to meet a specific problem or is it making a calculated attempt to occupy the left side of the political spectrum after a reading of what it takes to be popular feeling?"[59] Orland French, a journalist, saw the bills as a calculated attempt to gain support from the political left. As French explained, "what the Tories might lose from their traditional base they'll pick up from the supporters of the party on the left -- the New Democrats. And what that could mean to the New Democrats would be a seat in the

balcony, watching the Conservatives, still in power scrap with the Liberals, still in the wilderness."[60]

A Minister's Advisory Committee was appointed in May 1974 to study the implementation of The Land Transfer Act, 1974 and The Land Speculation Tax Act, 1974. The committee was assigned the following objectives: "(a) review general submissions made to the Ministry on the acts; (b) recommend to the Minister the solicitation of additional submissions of a general nature in respect of any aspect of the administrative procedures or regulations required to implement the acts; (c) make recommendations to the Minister in respect of any administrative procedures or regulations required to implement the acts; and (d) review the technical provisions of the acts with a view to identifying and advising the Minister of any anomalies or provisions requiring clarification."[61] The Committee was chaired by Ronald Anson-Cartwright, a partner with Price, Waterhouse and Co.

In carrying out its mandate the committee met on eleven days during June and July, 1974. Some committee members also "met with representatives of the legal profession specializing in real estate matters."[62] Representatives of the Ministry of Housing, the Ministry of Tourism and of the Law Property Branch of the Ministry of Consumer and Commercial Affairs attended the committee's meetings. When the Committee's final report was submitted to the Minister of Revenue on July 26, 1974, it comprised 72 formal recommendations for amendments to the bill. However, the report was not tabled until October 1974 when the Minister of Revenue indicated that reforms would be undertaken in response to the report.[63] Such reforms underpinned

Bill 125, An Act to amend the Land Speculation Tax Act, 1974 which was introduced on October 25, 1974 and passed in February, 1975, and Bill 135, An Act to amend the Land Transfer Tax Act, 1974, which was introduced in November, 1974 and passed in December, 1974.[64] Both acts were essentially housekeeping in nature and involved definitional changes, further exemptions and other minor changes.[65] In terms of An Act to amend the Land Speculation Tax Act, 1974, the Minister of Revenue stated that some of these changes were also the result of his department's various investigations or experience with the administration of the act as well as suggestions made by members of the Ontario Legislative Assembly.[66]

A noteworthy amendment in 1974 involved the introduction of Bill 168, An Act to amend the Land Speculation Tax Act, 1974 #2 by the Minister of Revenue on December 5, 1974. This bill, which was passed on December 10, 1974, reduced the rate of the land speculation tax from 50 to 20 per cent. Prior to this amendment, considerable uncertainty existed about whether this tax was a deductible expense under federal law. To settle this uncertainty, Minister of Revenue, Arthur Meen, and Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs, John White, met with the federal Minister of Finance, John Turner, and the Minister of National Revenue, Ron Basford, in Ottawa. This meeting later led Turner to confirm that the federal government rejected Ontario's position that the land speculation tax be recognized as a deductible business expense under federal tax law.[68] Ontario opted not to fight the federal government's decision. As the provincial Treasurer explained:

> The point is that the Minister of Finance has now confirmed that if we should win he would seriously consider changing his act and, of course, if we should lose, then the point would have been proved.
>
> . . . Therefore, being a pragmatist at heart, it was my recommendation that we should recognize facts for what they were, ...[69]

In a broader perspective, these amendments should not be thought to be unusual if one takes into consideration that both were "developed in a hurried fashion and were ad hoc responses to a specific problem in Ontario's real estate market."[70]

3.4 Changes in Ontario's Economic and Political Environment

Further significant revisions occurred to Ontario's legislation in the coming years in response to changes in the province's economic and political climate. Important developments included the September 1975 provincial election which produced a minority Conservative government. The Conservatives won 51 seats and the NDP and Liberals 38 and 36 seats respectively. Since the government was now in a minority position, it may be argued that it would now have to take into greater consideration the views of opposition parties and interest groups when developing new legislation. Sensitivity to other pressures and interests would include, for example, the proposal made by Liberal Leader Robert Nixon during the 1975 election that the land speculation tax be repealed or not enforced.[71] This was the only related proposal on this issue by the three major parties during the election.

Declining investment and slow economic growth were related factors. For example, the Conference Board of Canada noted that Ontario averaged 94.1 per cent of other provinces' growth between 1970 and 1976.[72] However, between 1977 and 1980, Ontario experienced only 39.4 per cent of the growth that occurred in other provinces. This problem was identified in a government paper presented in the Legislative Assembly by the Provincial Treasurer, W. Darcy McKeough, on November 23, 1976.[73] Entitled "Ontario Economic Strategy for 1977," the paper argued that to increase Ontario's share of total new investment in Canada, the province would have to forego any increase in the sales tax on machinery and production equipment. This same line of reasoning may have influenced the government's decision to introduce Bill 48, An Act to amend The Land Transfer Tax Act, 1974 and Bill 49, An Act to amend The Land Speculation Tax Act, 1974 on April 19, 1977.[74] Both bills considerably "watered down" the original acts by having the taxation apply only to agricultural and recreational land and no longer to residential, commercial and industrial land. McKeough stated that the government made these changes to attract more job-creating investment so that it could reverse high levels of unemployment.[75]

In reaction, Liberal finance critic, David Peterson, stated that his party liked the changes to the land transfer tax and land speculation tax. They appeared to be a step towards the ultimate repeal of the laws.[76] Executive Director of the Ottawa Board of Trade, Jean Biraben, also welcomed the changes. He believed they

would encourage investment and create jobs by helping property investors.[77] In contrast, an editorial in the Globe and Mail argued that it was with questionable judgement that McKeough narrowed the application of the land transfer tax to agricultural and recreational land only.[78] The editorial also opposed a proposal to reduce the time period from ten years to five years on which investment properties must be held in order to be exempt from the land speculation tax.

However, both bills, died when Premier Davis called an election for June 9, 1977. The Premier stated he wanted support for the policies presented by his government in the spring session.[79] While the election was strongly contested by all three parties, amendments to the land speculation tax and land transfer tax did not enter the general debate or become part of any party's election platform during the election.[80] In the end, the provincial election resulted in another Conservative minority government.

3.5 Bill 13, An Act to amend The Land Transfer Tax Act, 1974 and Bill 14, An Act to amend The Land Speculation Tax Act, 1974

Following the election, the government held a four week session of the Legislature beginning June 27, 1977. It was then that the Minister of Revenue, Margaret Scrivener, introduced Bill 13, An Act to amend The Land Transfer Act, 1974 and Bill 14, An Act to amend The

Land Speculation Tax Act, 1974.[81] Both bills were passed without major changes.

The Minister of Revenue stated that amendments to the land transfer tax were the result of changing economic conditions and that these "amendments will clearly indicate that non-resident investment in commercial, industrial or residential property, particularly apartments, continues to be welcome in Ontario."[82] While amendments to the land speculation tax also encouraged investment, the Minister stated the government remained committed to its policy of discouraging land speculation.[83]

Bill 13, as amended, narrowed the category of lands on which the 20 per cent land transfer tax would apply on conveyance to non-residents. It did so by having the 20 per cent tax apply only to agricultural and recreational land and not the new broad category of "unrestricted land" which included residential, commercial and industrial land. For "unrestricted land" the normal rate of tax (3/10 or 1 per cent on the first $35,000 and 6/10 of 1 per cent on the remainder) would apply.

The most important amendment in Bill 14 involved a reduction in the time period, from ten years to five years, on which an investment property must be held in order to be eligible for exemption from the land speculation tax. The Minister of Revenue stated that "this change will make investment in apartment buildings more attractive and will spur the construction of needed rental accommodation."[84] Bill 14 also implemented certain amendments arising from amendments to The Land Transfer Tax Act.

The opposition parties were divided in their response. For example, Liberal finance critic David Peterson stated his party supported amendments to the land speculation tax since it was one step along the way of phasing the act out.[85] But NDP finance critic Michael Cassidy stated his party's strong opposition to both bills.[86] Cassidy argued as follows:

> . . . In 1972-73, the revenues from The Land Transfer Tax Act were $29 million. In 1973-74, that is up to virtually the day that this tax was introduced, those revenues jumped by 50 per cent to $46 million. In the year that this 20 per cent tax was introduced, however, the revenues from The Land Transfer Tax Act increased by all of $2 million, or about five per cent from $46 million to $48 million; and they have risen very gently since then to $51 million in the fiscal 1975-76 year and to an estimated $52 million in 1976-77.[87]

In terms of the land speculation tax, Cassidy noted that the tax brought in only $3 million in 1975-76, $6 million in 1976-77 and an estimated $9 million in 1977-78. But when the act was first introduced in 1974, the government estimated it would produce $25 million in revenue annually.[88]

3.6 1978 Regulation to Amend a Regulation Passed Under the Public Lands Act

Further policy changes, which allowed the purchase of Crown land for private recreational use, were outlined in the Speech from the Throne on February 21, 1978 when the government said that Crown land use would be made available for sale for recreational purposes for the first time since 1971. This policy change was a response to economic problems. As Minister of Natural Resources, Frank Miller,

explained: "We believe that ownership will stimulate cottagers to invest more money in the buildings erected and will encourage improvements which will create employment in the local communities."[89] Miller provided the following details of the program on May 16, 1978:

> To be eligible to purchase or lease a crown cottage lot during the first year following registration of a subdivision an applicant must be resident in Ontario either as a Canadian citizen or landed immigrant.
>
> During the second year after registration other Canadian citizens or landed immigrants living outside the province along with the residents of Ontario, are eligible to purchase or lease any cottage lots that remain ungranted in that subdivision. After the second year, non-Canadians become eligible to lease. . . lots that remain ungranted in the third year.[90]

It is not until July 24, 1978, however, that these regulations were filed under The Public Lands Act.[91] In doing so, it would appear that the Tory government developed a discreet loophole clause that would eventually allow "non-residents" to purchase Crown land. For example, Canadians who purchased Crown land in Ontario could sell this land (now as private land) back to "non-residents" since the government, according to Miller, decided "it would not be right to restrict what a Canadian could do with his land once he obtained title to it."[92] An editorial in the Globe and Mail opposed this notion by arguing that "the decision to sell is stupid. The old policy of granting leases that could run for 50 years demonstrated a sensitivity to needs extending far into the future."[93]

During the development of the new policy, distinct differences of opinion emerged between Ontario's three major parties. Frank

Miller, the Minister of Natural Resources, proposed lifting the ban on the sale of Crown land for cottages to non-residents but the Cabinet overruled him.[94] Michael Cassidy, the N.D.P.'s new leader, also expressed opposition to selling Crown land to non-residents.[95] During the debate a resolution was moved by Progressive Conservative M.L.A. Edward Havrot, that "the government should give consideration to legislation that would prohibit the transfer of leased Crown lots in the province of Ontario to anyone other than Canadian citizens."[96] The resolution was not passed.

In terms of reaction by interest groups, Gordon Mewhiney, President of the Federation of Ontario Cottagers Association, supported the government's new policy. He felt there was a lack of demand for cottage lots and thousands of lots would have to be sold to improve the economy in Northern Ontario.[97] In contrast, James Conrad, Executive Director of the Committee for an Independent Canada, voiced strong opposition to the policy change. Conrad's opposition arose from comments made by Minister of Natural Resources a day earlier "that non-Canadians should be allowed to buy cottage land in Northern Ontario."[98]

3.7 An Act to repeal The Land Specualtion Tax Act, 1974

Amendments continued that year with the introduction of Bill 51, An Act to repeal The Land Speculation Tax Act, 1974 by Minister of Revenue, L. Maeck, on October 24, 1978. This act provided that all land dispositions registered after October 24, 1978 were no

longer subject to the 20 per cent tax.[99] Statutory liens, according to the act, were also eliminated on January 1, 1979, except for those liens that had been registered on title for unpaid taxes.

In defending these reforms, the Minister of Revenue noted that government statistics indicated a stabilization of housing prices to the end of 1977.[100] Data also showed "that in 1974 housing prices increased 26.8 per cent on an average but only 3.9 per cent in 1977."[101] Therefore, added the Minister, in keeping "with the government's commitment to deregulation and tax simplification"[102] the government decided to repeal the act. The Minister also noted that when the act was first introduced in 1974 the government stated it was a temporary measure and by repealing the act, the government was living up to that promise."[103] Progressive Conservative M.L.A., J. Williams, interpreted the government's actions as a means to "rekindle and restore the confidence of foreign investors in the province."[104] This was a defensible interpretation since the Provincial Treasurer, Frank Miller, had earlier tabled the province's fall budget which indicated that the government's deficit had increased to $1.48 billion -- almost 41 per cent higher than forecast.[105] Miller blamed a lagging economy which reduced the government's income from personal and corporate income taxes.

Reaction to the repeal of the tax was widespread and mixed. NDP Leader Michael Cassidy opposed the tax's removal and stated that it was " 'a necessary weapon in the government's arsenal' to prevent land speculation in areas where rapid development is taking place."[106] Cassidy argued that the tax had been one of the factors

that had "reduced the rise in house prices and should be continued and reinforced by other measures to make houses affordable."[107] In contrast, Liberal Leader, Stuart Smith supported the removal of the tax since "he doubted there would again be 'red-hot speculation' in land."[108] Smith stated the "tax was simply making it impossible for all but the largest developers to hold and develop land, and was effectively reducing competition in the real estate market."[109] Ross Cullingworth, senior Vice-president of Costain Estates Ltd. and Director of the Urban Development Institute of Ontario, also supported the removal of tax when he argued that it had "outlived its usefulness by about two years."[110] Cullingworth, who had for some time sought removal of the tax, doubted there would be "a repeat of the 1973-74 housing price boom because the supply of houses [had] increased slightly and the peak of demand was past."[111] Ken Creppin, President of the Ontario Real Estate Board, also maintained that the tax had outlived its usefulness. He stated "the law was very effective when it first came in . . . It slowed the market right down. But I don't think it was doing anything at all over the past couple of years."[112] Clifford Pilkey, president of the Ontario Federation of Labour argued that the "removal of the tax will make it harder for people to buy houses. . . [since] it could lead only to increases in the price of land at a time when there is a shortage of moderately priced housing."[113] Dennis Coolican, chairman of the Regional Municipality of Ottawa-Carleton responded to the repeal of the tax by stating that "speculation was not a problem in the region anyway."[114]

3.8 An Act to require the Registration of Non-Resident Interests in Agricultural Land in Ontario

Further legislation was introduced by the government in the form of Bill 60, An Act to require the Registration of Non-Resident Interests in Agricultural Land in Ontario by the Minister of Agriculture and Food, Lorne Henderson on April 29, 1980 (see Appendix 3.10.8). The bill was a response to several developments. On December 5, 1978, Liberal M.L.A. John Riddell (a farmer, livestock sales owner and member of the Agricultural Institute of Canada) made a request in the Legislature that the Minister of Agriculture and Food, William Newman, "undertake a survey of current foreign ownership of rural lands in Ontario and monitor all new land transfers to private or corporate foreign ownership."[115] This request was based on a recommendation developed by the largest farm organization in the province -- the Ontario Federation of Agriculture -- at its 1978 annual meeting. In response, Newman stated that such a request could not be met because of limitations on his staff. Moreover, recent data provided to him suggested that foreign ownership of farm land was low in the province.[116] Riddell persisted, however, by introducing on May 29, 1979, a private member's bill entitled, An Act to provide for Disclosure of Non-Resident Investment in Agricultural Land in Ontario.[117] Progressive Conservative M.L.A., Robert Eaton, introduced a similar private members' bill in the form of Bill 166, An Act to provide for

the Registration of Non-Resident Ownership of Agriculture Land in Ontario.[118]

Two related studies were conducted by the government. One involved a sessional paper tabled in the Legislature on June 22, 1979, entitled Foreign Ownership of Agricultural Land in Kent and Huron Counties (No. 139).[119] This study, which was conducted by the Ontario Department of Agriculture, found minimal foreign ownership of farm land in the two counties surveyed. For Huron county, the report found that 3,989 acres were owned in 1978 by persons with foreign addresses, compared with 2,423 acres in 1976. But the 1978 amount is less than one half of one per cent of the 840,832 acres of land in the county. For Kent county, the report found that 4,483 acres were owned in 1978 by persons with foreign addresses, compared with 6,045 acres in 1976. This amount comprised less than one per cent of the 616,320 acres of land in the county. While these figures suggest a low amount of farm land under foreign ownership, dissatisfaction with the government persisted. By May, 1979, the Ontario Federation of Agriculture had set up its own special committee to monitor the issue.[120] The government also continued to study this issue in 1979 through a survey questionnaire sent to approximately five hundred municipal clerks.[121] With an estimated 16 million acres of agricultural land in the province, preliminary results from the survey indicated that less than 0.75 per cent of 10.4 million acres surveyed was foreign-owned.[122]

The need to maintain current records on foreign land ownership in the province was recognized in the 1980 Speech from the

Throne. It stated that "because of the strategic nature of the agricultural resource, an up-to-date inventory of land ownership must be maintained at all times."[123] To achieve this goal, the government introduced Bill 60 which "requires persons who are non-residents of Canada to file a registration report on any agricultural land in Ontario."[124] Agricultural land is defined as land that is zoned for, or is assessed or actually used as, agricultural land. A non-resident person includes "a non-resident corporation as defined in the bill and registration is required by a person who holds or acquires an interest in agricultural land as trustee for a non-resident person."[125] The act also provides for penalties for failing to file a registration report or for otherwise contravening the act.

Reaction to the act by the Liberal and NDP parties was favourable. For example, former Liberal Leader Robert Nixon supported the bill's principle.[126] Liberal M.L.A., J. Riddell, was also able to highlight on June 9, 1980 the questionable accuracy of the Kent and Huron county study and thus the necessity for Bill 60. As the M.L.A. explained:

> In Huron county, for instance, the Ministry of Agriculture and Food report indicates that 1,248 acres were owned by German firms in 1978. But the local federation of agriculture has compiled information on 1,870 acres of German-owned land in Ashfield township alone. In neighbouring Howick township, about 1,000 acres have been bought since 1975 by a registered Ontario corporation whose principal director is a citizen of West Germany.[127]

A number of NDP M.L.A.s also chose to speak in basic support of the bill. This included former NDP Leader, Donald MacDonald, who argued:

> Anybody who has read the provincial dailies across Ontario knows that The Kingston-Whig Standard, The London Free Press, The Windsor Star and paper after paper have written not only editorials trying to arouse this government but also long series of articles in which they went out -- granted, facing again the inadequacies of a mechanism for getting the information -- and at least got ad hoc bits and pieces of information to indicate that there was this significant transfer to foreign ownership.[128]

3.9 Conclusion

The foregoing discussion suggests that the Ontario government's taxation measures on alien and non-resident land ownership stemmed from economic problems and not principled opposition to foreign ownership. Salient problems included inflation and declining land availability from increasing foreign ownership in the Ontario land market. The two major acts to deal with these problems were The Land Transfer Tax Act and The Land Speculation Tax Act. While opposition parties, interest groups, the public and the media generally supported the legislation's main objective of taxing land speculators, much debate centered around the proper policy response.

At the outset, amendments to the legislation during the 1974-75 period were necessary because the original statutes were developed quickly as ad hoc responses to immediate problems notably high inflation in the Ontario land market. In responding to an existing problem, it appears that the government made its initial controls overly restrictive. For example, within a year the

government found it necessary to reduce the land speculation tax from 50 per cent to 20 per cent.

The next major period of amendments occurred in 1977 and 1978. These amendments reduced the restrictiveness of the legislation and Crown land policy in response to declining investment and growth in the Ontario economy. While the PC government was in a minority position in the Legislature, they were able to pass these amendments with Liberal support. This support served to highlight the similarities between the two parties on the issue of foreign ownership. At present, the government's remaining taxation measure on private land - The Land Transfer Tax Act - now essentially applies only to agricultural and recreational land.

NOTES

[1]Ontario, Select Committee on Economic and Cultural Nationalism, Report of the Select Committee on Economic and Cultural Nationalism, Final Report (Toronto: Queen's Printer, 1975), pp. 23 and 117.

[2]Peter Oliver, "Ontario," in Canadian Annual Review for 1970, ed. John Saywell (Toronto: University of Toronto Press, 1971), p. 218.

[3]Ibid.

[4]Globe and Mail, May 15, 1971.

[5]Globe and Mail, October 13, 1971.

[6]Ibid.

[7]Ontario, Ontario Economic Council, National Independence: Issues and Alternatives, (Toronto: Ontario Economic Council, 1976), p. 8.

[8]Ontario, Ministry of Treasury and Economics, 1982 Ontario Budget, p. 14.

[9]Peter Oliver, "Ontario," in Canadian Annual Review of Politics Public Affairs, 1970, ed. John Saywell (Toronto: University of Toronto Press, 1971), p. 218.

[10]Ibid.

[11]Ontario, Select Committee on Economic and Cultural Nationalism, Interim Report: Foreign Ownership of Ontario Real Estate (Toronto: Queen's Printer, 1973), p. 38.

[12]Ibid., p.19.

[13]Ontario,

[14]Ontario, The Ontario Gazette, Part 2, 1971, p. 48.

[15]Canadian Council of Resource and Environment Ministers, The Administration of Crown Lands in Canada (Montreal: Canadian Council of Resource and Environment Ministers, 1972), p. 12.

[16]Select Committee on Economic and Cultural Nationalism, Interim Report, p. 38.

[17]Ontario, Department of Treasury and Economics, Department of Trade and Development, Department of Financial and Commercial Affairs, Report of the Interdepartmental Task Force on Foreign Investment, 1971, pp. 49-50.

[18]Ontario, Select Committee on Economic and Cultural Nationalism, Preliminary Report of the Select Committee on Economic and Cultural Nationalism (Toronto: Queen's Printer, 1972), p. 1.

[19]The seven Progressive Conservatives were Russell Rowe (Chairman), Sidney Handleman, R. Glen Hodgson, R. Douglas Kennedy, Nicholas Luluk, William Newman and Gordon Walker. The NDP members were Ian Deans and Eric Martel and the Liberal members were Donald Deacon and Richard Smith.

[20]Select Committee on Economic and Cultural Nationalism, Interim Report.

[21]Ontario, Select Committee on Economic and Cultural Nationalism, Interim Report: Advertising and the Advertising Industry (Toronto: Queen's Printer, 1974). Ontario, Select Committee on Economic and Cultural Nationalism, Interim Report: Colleges and Universities (Toronto: Queen's Printer, 1973).

[22]Select Committee on Economic and Cultural Nationalism, Interim Report, p. 19.

[23]Ibid.

[24]Ibid., p. 27.

[25]Ibid.

[26]Ibid., p. 53.

[27]Canada, Federal-Provincial Committee on Foreign Ownership of Land, Report to the First Ministers (Ottawa: Information Canada, 1975), p. 9.

[28]Ontario, Legislature of Ontario Debates, April 9, 1974, p. 1013.

[29]Ibid, p. 1014.

[30]Ted Walden, "Controls of Alien Land Ownership in Ontario," in Foreign Investment in Land -- Alternative Controls, ed. Peter Horwood (Vancouver: University of British Columbia, 1976), p. 62.

[31]Ibid.

[32]Select Committee on Economic and Cultural Nationalism, Interim Report, p. 49.

[33]Legislature of Ontario Debates, April 9, 1974, p. 1014.

[34]Federal-Provincial Committee on Foreign Ownership of Land, Report to the First Ministers, p. 17.

[35]The Land Speculation Tax Act, 1974, Statutes of Ontario 1974, c. 17.

[36]I. Schwartz, J. Burns and P. Hayden, eds., Foreign Investment in Canada: A Guide to the Law (Scarborough: Prentice-Hall of Canada, 1974), p. 76,350.

[37]Ontario, The Ontario Gazette, Part 2, (O. Reg 191/75), pp. 1131-1133; Ontario, The Ontario Gazette, Part 2, (O. Reg 194/75), pp. 1133-1134.

[38]Toronto Star, April 10, 1974.

[39]Legislature of Ontario Debates, April 22, 1974, p. 1219.

[40]Legislature of Ontario Debates, March 8, 1974, p. 89.

[41]Legislature of Ontario Debates, April 19, 1974, p. 1184.

[42]Ibid., p. 1186.

[43]Toronto Star, April 10, 1974.

[44]Ibid.

[45]Toronto Star, Ocotber 13, 1971. During the election, the NDP also proposed to use the Ontario Development Corporation to reclaim land from foreigners. For details see Globe and Mail, October 12, 1971.

[46]Legislature of Ontario Debates, April 9, 1974, p. 1014.

[47]Toronto Star, April 11, 1974.

[48]Toronto Star, April 11, 1974.

[49]Ibid.

[50]Globe and Mail, April 12, 1974.

[51]Toronto Star, April 11, 1974.

[52]Globe and Mail, April 11, 1974.

[53]Hamilton Spectator, April 11, 1974.

[54]Globe and Mail, April 10, 1974.

[55]Ottawa Citizen, April 10, 1974.

[56]Ottawa Journal, April 10, 1974.

[57]Ibid.

[58]Toronto Star, April 10, 1974.

[59]Ottawa Journal, April 10, 1974.

[60]Ottawa Citizen, April 11, 1974.

[61]Ontario, Ministry of Revenue, Minister's Advisory Committee on the Implementation of The Land Transfer Tax Act, 1974 and The Land Speculation Tax Act, 1974, Recommendations to the Minister of Revenue for the Province of Ontario relating to The Land Transfer Tax Act, 1974 and The Land Speculation Tax Act, 1974, July 26, 1974, p. 1.

[62]Ibid., p. 2.

[63]Legislature of Ontario Debates, October 25, 1974, p. 4389.

[64]For further reading of the legislative debates on Bill 125 see Legislature of Ontario Debates, October 25, 1974, pp. 4391-4392; Legislature of Ontario Debates, December 6, 1974, pp. 6166-6175; and Legislature of Ontario Debates, January 31, 1975, p. 7108.

[65]For an excellent discussion on the impact of the Minister's Advisory Committee on Bill 125, see Starr and Roy, Legislative History.

[66]Legislature of Ontario Debates, October 25, 1974, p. 4391.

[67]Ibid., p. 4389.

[68]Legislature of Ontario Debates, December 9, 1974, p. 6207.

[69]Ibid.

[70]Walden, "Controls in Ontario," p. 65.

[71]Toronto Star, September 4, 1975.

[72]Conference Board of Canada, Quarterly Provincial Forecast, 6 (December 1981):48.

[73]Ontario, Ministry of Treasury, Economic and Intergovernmental Affairs, Fiscal Policy Division, Ontario's Economic Strategy for 1977.

[74]Legislature of Ontario Debates, April 19, 1977, p. 699.

[75]Ibid., p. 694.

[76]Globe and Mail, April 20, 1977.

[77]Ottawa Citizen, April 21, 1977.

[78]Globe and Mail, April 20, 1977.

[79]Canada News Facts, 11(1977):1749.

[80]This conclusion is based on a review of election reports provided in the Globe and Mail, Ottawa Citizen and Ottawa Journal newspapers. Also, there was no mention of this issue in the election platforms that were extensively outlined in the Globe and Mail, June 8, 1977.

[81]Legislature of Ontario Debates, June 27, 1977, p. 5.

[82]Legislature of Ontario Debates, July 5, 1977, p. 377.

[83]Ibid., p. 392.

[84]Legislature of Ontario Debates, July 5, 1977, p. 392.

[85]Ibid., p. 405.

[86]Ibid., pp. 377 and 393.

[87]Ibid., p. 385.

[88]Ibid., p. 403.

[89]Legislature of Ontario Debates, March 2, 1978, p. 249.

[90]Legislature of Ontario Debates, May 16, 1978, p. 2552.

[91]Ontario, The Ontario Gazette, Part 2, 1978, p. 1421.

[92]Globe and Mail, March 3, 1978.

[93]Globe and Mail, March 6, 1978.

[94]Legislature of Ontario Debates, February 28, 1978, p. 173.

[95]Ibid., p. 174.

[96]Legislature of Ontario Debates, May 4, 1978, p. 2230.

[97]Globe and Mail, March 3, 1978.

[98]Globe and Mail, February 28, 1978.

[99]Lorne H. Saltman, "An Analysis of The Land Transfer Tax Act, 1974," in Manual of Land Taxes in Ontario, ed. Larry A. Torkin (Toronto: Canadian Bar Association, 1978), p. LST-304.

[100]Legislature of Ontario Debates, October 31, 1974, p. 4433.

[101]Ibid.

[102]Ibid.

[103]Ibid.

[104]Ibid., p. 4444.

[105]Legislature of Ontario Debates, October 24, 1974, p. 4135.

[106]Globe and Mail, October 25, 1978.

[107]Ottawa Journal, October 25, 1978.

[108]Globe and Mail, October 25, 1978.

[109]Ottawa Citizen, October 25, 1978.

[110]Globe and Mail, October 25, 1978.

[111]Ibid.

[112]Ottawa Journal, October 25, 1978.

[113]Globe and Mail, October 25, 1978.

[114]Ottawa Journal, October 25, 1978.

[115]Legislature of Ontario Debates, December 5, 1978, p. 5635. Pierre G. Normandin, ed., The Canadian Parliamentary Guide 1980, (Ottawa: n.p., 1980), pp. 829-830.

[116]Legislature of Ontario Debates, December 5, 1978, p. 5635.

[117]Legislature of Ontario Debates, May 29, 1979, p. 2306.

[118]Legislature of Ontario Debates, November 6, 1979, p. 2306.

[119]Legislature of Ontario Debates, June 22, 1979, p. 3241.

[120]Legislature of Ontario Debates, June 9, 1980, p. 2645.

[121]Legislature of Ontario Debates, November 22, 1979, p. 4715.

[122]Ibid.

[123]Legislature of Ontario Debates, March 11, 1980, p. 967.

[124]An Act to require the Registration of Non-resident Interests in Agricultural Land in Ontario, S.O. 1980, c. 26.

[125]Ibid.

[126]Legislature of Ontario Debates, June 9, 1980, p. 2649.

[127]Ibid., p. 2645.

[128]Ibid., p. 2648.

Appendix 3.10.1

PERSONS APPEARING BEFORE THE SELECT COMMITTEE ON ECONOMIC NATIONALISM - PRELIMINARY REPORT

C. Peter Honey, Esq., Chairman of the Interdepartmental, Task Force on Foreign Investment

Dr. A.E. Safarian, Dean, School of Graduate Studies, University of Toronto

Geoffrey R. Conway, Esq.

Robert Banner, Esq., O.C., Vice Chairman, MacMillan Bloedel, Limited

Professor Melville Watkins, Department of Political Economy, University of Toronto

Dr. Robert M. MacIntosh, Deputy Chief General Manager, The Bank of Nova Scotia

The Executive of the Committee for an Independent Canada:

The Honourable Walter L. Gordon, P.C.

Edwin A. Goodman, Esq., Q.C.

Professor Abraham Rotstein,

J.L. Biddell, Esq.,

Peter C. Newman, Esq.

Professor I.A. Litvak, Department of Economics, Carleton University

Dr. Kari Levitt, Department of Economics, McGill University

His Worship Mayor Michael Solski, Town of Coniston.

Donald Lyons, Esq., Business Agent, Rock and Tunnel Workers, Local 183

M.C. "Bud" Germa, Esq., M.P.P. for Sudbury

M. McGuire, Esq., President Local 6500, United Steel Workers of America

Gilbert Gilchrist, Esq., United Steel Workers of America

James Tester, Esq., President, Mine, Mill and Smelter Workers

Floyd Laughren, Esq., M.P.P. for Nickel Belt

John Rodriguez, Esq., Alderman, Town of Coniston

Murray Davidson, Esq., Deputy Mayor, City of Sudbury

John McCreedy, Esq., Vice-President and General Manager Ontario Division, International Nickel Company of Canada Limited

Dr. James Gillies, Chairman, Ontario Economic Council

Douglas H. MacAllen, Esq., Executive Assistant to the Chairman, Imperial Oil Limited

Appendix 3.10.1 (cont'd)

The Honourable Eric Kierans, P.C.
M.P. for Duvernay

William Dodge, Esq.,
Secretary-Treasurer,
Canadian Labour Congress

Douglas H. MacAllen, Esq.,
Executive Assistant to the
Chairman,
Imperial Oil Limited

J. Flavelle Barrett, Esq., Q.C.,
General Counsel, Imperial Oil
Limited

The Committee met before the
Special Senate Committee on
Science Policy in response to
the invitation of the Chairman
of the Committee,
Senator Maurice Lamontagne, P.C.

Shane MacKay, Esq., Assistant
Vice President,
International Nickel Company of
Canada Limited

Percy W. Bishop, Esq.,

Kenneth Rowe, Esq., Industrial
Commissioner,
Town of Mississauga

Professor John Crispo, Acting
Director,
School of Business,
University of Toronto

SOURCE: Ontario, Select Committee and Economic and Cultural Nationalism, Preliminary Report of the Select Committee on Economic and Cultural Nationalism (Toronto: Queen's Printer, 1972), pp. 13 and 14.

Appendix 3.10.2

BRIEFS SUBMITTED TO THE SELECT COMMITTEE ON ECONOMIC NATIONALISM - PRELIMINARY REPORT

Miss Ellen Anderson.

Harvey Brennan, Esq.

H.B. Caldwell, Esq.

Edward Carrigan, Esq.

Sushil Kumar Jain, Esq.

D.C. MacCharles, Esq.

E.D.K. Martin, Esq.

J.G. McClelland, Esq.

Ontario Federation of Labour.

Professor John C. Pattison,
Department of Economics,
University of Western Ontario.

Professor George Sinclair,
Department of Electrical Engineering,
University of Toronto.

United Electrical, Radio and Machine
Workers of America.

SOURCE: Ontario, Select Committee and Economic and Cultural Nationalism, Preliminary Report of the Select Committee on Economic and Cultural Nationalism (Toronto: Queen's Printer, 1972), p. 15.

Appendix 3.10.3

PERSONS APPEARING BEFORE THE SELECT COMMITTEE ON

ECONOMIC NATIONALISM

Toronto	August 2	Robert Kaplan, Esq., M.P., Dr. Omond Soldandt
Toronto	August 3	Mr. Lewis Applebaum, Executive Director of the Province of Ontario Council for the Arts, Mr. J. Adamson, Chairman of the Council, Colonel Frank McEachren, Vice-Chairman, Ron Evans of the Council's staff, David Archer, Esq., of the Ontario Federation of Labour
Toronto	August 8	Alan Heisey, Esq., Mr. J.E. Brent, Chairman of the Board I.B.M. Canada Ltd., and Mr. W.V. Moore, President and Chief Executive Officer
Toronto	August 9	Professor George Sinclair, Faculty of Electrical Engineering, University of Toronto, Mr. William Stewart, Leader of the Communist Party of Canada, Ontario Branch, Thomas Clement, Esq., of the 85% Canada Quota campaign
Toronto	August 10	Mr. John Boyle, Ontario spokesman for the Canadian Artists Representation, Mr. George Jackson, Securities Representative, from Milton, Ontario, Mr. John Gregorovitch and Mr. A. Gregorovitch, of the Canadian-Ukrainian Research Foundation

Appendix 3.10.3 (cont'd)

Toronto	August 10	Mr. Peter Hunter, McConnell Advertising Ltd., Mr. Henry Karpus, Ronald-Reynolds & Company Ltd.
New York	August 14	Mr. Bruce I. Rankin, Canadian Consul-General Mr. Donald Armstrong, Deputy Consul-General for Canada
New York	August 15	Mr. Robert M. Norris, President of the National Foreign Trade Council, Mr. Louis C. Feffer, Director of Trade and Investment Analysis, Mr. Melville H. Walker, Vice-President and Treasurer of the Council Professor Tom Franck, Director of International Studies New York University, Professor Edward Weisband, Deputy Director of International Studies, New York University, Mr. Barry Lando, CBS News, Washington, Mr. Mario Amaya, Director, New York Cultural Centre
New York	August 16	Mr. Robert Bennett, Vice-President, I.B.M. World Trade Corporation, Mr. Jeffrey Keene, Director, International Affairs, and Mr. W.C. Moore, President and Chief Executive Office, I.B.M. Canada George C. Scott, Esq., Vice-Chairman, First National City Bank, George J. Clark, Senior Vice-President, Wilfred Farnsworth, Vice-President,

Appendix 3.10.3 (cont'd)

New York	August 16	Harold van Buren Cleveland, Vice-President Laurence Glenn, Vice-President, B.H. Kjellergren, Assistant Vice-President, and James Butler, Assistant Cashier, First National City Bank
New York	August 15	Mr. W.E. Quigley, Vice-Chairman, The Anaconda Company, Donald F. Cornish, Esq., President, Anaconda Canada Ltd.
New York	August 17	David C. Fuchs, Esq., Director of Program and Administration, Marketing Services, CBS News, Robert F. Jamieson, Esq., Director of Business Administration, Columbia Broadcasting System, and Harry R. Olsson, Esq., General Attorney, Columbia Broadcasting System, Professor Peter Evans, Department of Sociology, Brown University, Providence, Rhode Island, Mr. Ralph P. Davidson, Publisher Time Magazine, Mr. Steven Larue, President, Time Canada and other officials of Time Magazine
Paris, France	September 18	Officials of Pechiney Ugine Kuhlman: Mr. R. Chambard, Director, Relations internationales; Mr. J.L. Dherse, Director, American Branch; Mr. Pache, Director, Uranium Branch; Mr. Masson, Director, Mines; Mr. Serge Lazareff, Director of Legal Services

Appendix 3.10.3 (cont'd)

Paris, France	September 18	Mr. Jean de la Motte de Broons, Ministere de l'Economic nationals et des Finances, Chef du Bureau des Investissments etrangers, Direction du Tresor Mr. Denis Georges-Picot, Minister de l'Economie nationale et des Finances, Sous-director du Bureau des Investissements etrangers, Direction du Tresor His Excellency Leo Cadieux, Canadian Ambassador to France
Paris, France	September 19	Mr. B. Gestrin, Director, Country Studies and Prospects Branch, Organization for Economic Cooperation and Development (OECD), Mr. G. Broker, Financial Affairs Directorate, OECD, Mr. B. Roelants du Viviers, Industry and Energy Directorate OECD His Excellency, Mr. Jean-Louis Gagnon, Canadian Ambassador to U.E.S.C.O. Mr. A. Seydou, Director, Cultural Department, U.M.E.S.CO., Mr. Philippe Podevin, Charge de Mission, Delegation a l'Amenagement du Territoire et a l'Action Regionale (DATAR)
Paris, France	September 20	Mr. Gerard Montassier, Secretaire general du Fonds d'Intervention Culturelle, and officials of the Ministry of Culture
Brussels, Belgium	September 21	Mr. J.A. Roy, Charge d'Affaires, Canadian Chancellory, Mr. A. Morris, Director General, Dr. W. Stabenow, Head of Harmonization and Coordination Division, and

Appendix 3.10.3 (cont'd)

Brussels, Belgium	September 21	Dr. D. Maltzahn, Head of Division, of the European Economic Community, Mr. A. Coessens, Director General, Industrial Administration, Mr. R. Charlier, Director, Foreign Investments, and Mr. M. Pochet, Special Assistant to the Minister Ministry of Economic Affairs
Brussels, Belgium	September 22	Mr. J. Remiche, Administrateur general, Mr. C. Pirlot, Chef de Service, Service des Arts Plastiques, Mr. Cantillon, Conseiller adjoint, Service de Documentation et inspection, Mr. J. Remy, Conseiller musical, Mr. R. Leonard, Conseiller adjoint, Statistique culturelle et planning, Mr. L. Joassin, Conseiller litteraire, Mr. De Meter, Statistique culturelle et planning, Mr. G.H. Dumont, Chef de Cabinet, Ministries of Culture, Mr. W. Debrock, Director General, Mr. W. Juwet, Director, National Cultural Institutions, Mr. J. Kestelyn, Director, Music and Lyric Arts, Mr. C. Haesaerts, Counsellor, Literature, Ministry of Dutch Culture, Mr. H. Newman, President, Mr. C. Gijselinck and Mr. F. Herman, Directors,

Appendix 3.10.3 (cont'd)

Brussels, Belgium	September 22	Mr. J. DeSchuiteneer, and Mr. D. Bribosia, Deputy Directors National Investment Corporation, Mr. R. Allo, Headquarters Director, Mr. C. Demeure, Director of the Foreign Department, Mr. A. Delvaux, Assistant Director, Mr. A. De Merode and Mr. L. Van de Vijver, Director of Public Relations, Genstar
Ghent, Belgium	September 23	Professor D. van den Bulke, Toegepaste Economie, Brj de Rijksuniversitie Gent
Dusseldorf, Germany	September 25	Herr Ministerialdirigent Kleiner, Herr Diplo-Soziologe Schmelzle, Herr Regierungsdirektor Becker, Office of the Federal-Provincial Coordination, Herr Staatssekretar Golz, Herr Leitender Ministerialrat Offers, Herr Leitender Ministerialrat Reiche, Herr Leitender Ministerialrat Dr. Richthof, Herr Oberamterat Kempe, Ministry for Economics and Transport, Dr. Wilhel Lenz, Landtagsprasident, Herr Georg Neemann, Herr Dr. Hans Georg Wehner, Herr Willi Gottman, and Herr Edmund Duder, German Federation of Trade Unions
Bonn, Germany	September 26	His Excellency H.H. Crean, Canadian Ambassador to Germany, Minister Counsellor A. de W. Mathewson,

Appendix 3.10.3 (cont'd)

Bonn, Germany September 26	Minister Counsellor Wm. Jones, and Counsellor Miss D. Armstrong, Mr. Werner Junge, Associate Managing Director and Head of Law Branch, Frau Dr. Franziska Haenert, Specialist, Medium Industry Problems, Mr. Joachim Krepiin, Legal Branch, Mr. Hans Haupt, Foreign Economic Branch, Mr. Johannes Haubenreisser, Foreign Economic Branch of the Deutsche Industrie und Handelstag Mr. K.U. Gocksch, Head of Foreign Trade, Mr. C.L. Holtfrerich, Deputy Head of Foreign Trade, Mr. Meyer, Regional Structure, Mr. Jacob Esser, Integration and Development Policy, Count von Wolff-Metternich, Management Training, and Dr. Hermanns, Competitive Code of the Bundesverband der Deutschen Industries, Dr. Wolf-Dieter Linder, Head of the International Social Policy Section, on behalf of the Bundesverband der Deutschen Arbeitsgeber, (Federal Asso- iation of German Employees) Dr. Kurt Frey, General Secretary, Permanent Conference, Laeunder Culture Ministers.
Bonn, Germany September 27	Dr. Thieme, Head of Countries Division, Mr. Mertens, Industry Policy Section, Dr. von Preuschen, Regional Economic Policy,

Appendix 3.10.3 (cont'd)

Bonn, Germany	September 27	Dr. Jahn, Foreign Trade Law, Dr. Langer, Investment questions, Mr. Weise, Technology, Dr. Flandorffer, Foreign Economic Policy, Mr. Pitzer, Law Section, Mr. Schroeter, Trade Structure Policy, Mr. Schulze, Economic Questions in the Field of Mass Media and Publishing Mr. Flicker, Northern American Section, Dr. Abel, North American Section, Miss Burre, North American Section, Ministry of Economics and Finance
Stuttgart, Germany	September 28	Dr. Moeller, Wirtschaftsministerium fuer Baden-Wuerttember, Mr. Gnauert, Dr. Witt, and Mr. Robert Bosch, GMBH Stuttgart
Basel, Switzerland	September 29	Mr. Edwin Mallory, Assistant Commerical Secretary, Canadian Embassy, Dr. Hans Fehr, Vice-Director, Hoffman La Roche, Mr. Alfred Matter, Director of the Swiss Bank Corporation, and officials of both companies, Dr. H. Oberhunsli, Manager of the Union Bank of Switzerland, Mr. F. Purtschert, Manager, Union Bank, Mr. A. Oegelin, General Manager of the Swiss Popular Bank, Dr. Alfred Sulzer, Chairman of Handelsbank, Dr. Hans J. Mast, Manager of Swiss Credit Bank, and Mr. Robert H. Lutz, Member of the General Management of Swiss Credit Bank,

Appendix 3.10.3 (cont'd)

Basel, Switzerland	September 29	Mr. E. Bernhardt, Director of Brown Boveri, Baden, Mr. M. Zublin, Director, Sulzer AG, Winterthur, Mr. Ander Muller, Director General, Nestle SA, Vevey, Dr. E. Luk Keller, President, Eduard Keller, SA (export, import), Dr. Peter Hutzli, Secretary of the Swiss Trade and Industry Association
Berne, Switzerland	October 2	Minister P.A. Nussbaumer, Director Financial and Economic Service of the Federal Political Department, and Mr. Erwin Bischoff, Assistant, Mr. Robert Madory, Director, Division of International Matters, Department of Public Economy, Mr. Hans Greiner, Canada Desk, Division of Commerce Department of Public Economy, Mr. Bernard Stofer, Division of Political Affairs (West) Federal Political Department, Mr. Rudolph Widmer, Public Economy Division, National Bank, Zurich, Mr. Charles Levinson, Secretary General, International Federation of Chemical and General Workers Union, Dr. W. Jucker, President, Swiss Labour Unions, Mr. G. Nobel, Secretary Swiss Labour Unions, and Mr. E. Wuethrich, Secretary, Metal Workers Union, Mr. S. Huber, Economic and Regional Planning Branch, Department of Public Economy,

Appendix 3.10.3 (cont'd)

Berne, Switzerland	October 2	Professor U. Hochstrasser, Delegate, Science and Research Division, Department of Internal Affairs, Mr. Max Alterfer, Chief, Cultural Affairs, Department of Internal Affairs, Dr. Peter Berger, Vice-President, Chamber of Commerce, Berne, Mr. H.U. Aebi, Director, Chamber of Commerce, Berne, Mr. Sam Jaum, Secretary, Cultural Affairs, Berne, Dr. Paul Burgi, Member of the National Council
Stockholm, Sweden	October 4	Mrs. Birgit Assarsson, Ministry of Education, and Mr. Bo Lagercrantz, National Council of Cultural Affairs, Mr. Peter Wallenberg, and Mr. Bengt Andersson, Directors of Atlas Copco, and other officials of Atlas Copco, Mr. Wilhelm Paues, Director of the Department of International Affairs, Federation of Swedish Industries, Mr. Erik Pettersson, and Mr. Sten Niklasson, of the Ministry of Industry
Stockholm, Sweden	October 5	Mr. Sven Bauer, Barrister, and Mr. Styrbjorn Garde, Barrister, Mr. Ulf Berggren, Director of the Employees Association of the Swedish Petroleum, Mr. Erik Pettersson, and Mr. Sten Niklasson, of the Ministry of Industry

Appendix 3.10.3 (cont'd)

Stockholm, Sweden	October 6	Mr. Torsten Carlsson, Manager of the Planning Division, and Mr. E. Tandberg, along with other officials of the Skandinaviska Enskilda Bank, Mr. Lennart Reuterfalk, and other officials of Astra AB, Pharmaceuticals
London, England	October 9	Right Honourable Chris Chataway, Minister for Industrial Development, Mr. Richard Tait, Minister-Counsellor, Economic, and Mr. M. Sharp, and L. Berry, Mr. Robin Gray, Undersecretary, Industrial and Commercial Policy, Mr. J. Lippitt, Undersecretary, Industrial and Commercial Development Unit, Department of Trade and Industry, Mr. R.C. Cooper, and Dr. H. Ivey, Industrial and Commercial Policy Division, Department of Trade and Industry, Mr. T. Burgner, Chairman of the Exchange Control, Treasury, Professor Kenneth Simmonds, Graduate School of Business Studies
London, England	October 10	Dr. R.F. Knott, International Division, Imperial Chemical Industries Limited, Mr. James Hurlock, Barrister and Solicitor, Mr. Donald Madden, Barrister and Solicitor, Mr. William Clark, M.P., Member for East Surrey, Mr. Albert Cooper, M.P., Member for Ilford South,

Appendix 3.10.3 (cont'd)

London, England	October 10	Mr. Peter Trew, M.P., Member for Daftford, Mr. Trevor Skeet, M.P., Member for Bedford, Mr. John Hall, M.P., Member for Wycombe
Toronto	November 7	Mr. Peter Honey, Ministry of Treasury, Economic and Intergovernmental Affairs, Mr. J. Gregg O'Neil, Management Board of Cabinet
Toronto	January 9, 1973	Mr. Charles Geoffroy, Young and Rubicam Ltd., Mr. Edward D. Brown, Doyle, Dane, Bernbach Advertising Ltd., Mr. Graham Campbell, Norman, Craig and Kummel, Mr. Harold Johnston, Leo Burnett Co., Ltd., Mr. Bruce McLean, Needham, Harper & Steers of Canada Ltd., Mr. George Cross, Spitzer, Mills & Bates Limited, Mr. James Reeve, McCann-Erickson Advertising of Canada Ltd., Mr. Donald Robertson, J. Walter Thompson Co., Ltd., John Straiton, Ogilvy & Mather (Canada) Ltd., Mr. A.G. Kershaw, Chairman of the Board, Ogilvy & Mather (Canada) Ltd., Mr. Brian Skinner, President, Brian Skinner Communications Ltd., Mr. Ivor Downie, President, Downie Advertising Ltd., Mr. Cal McLauchlan, Mohr Ltd.

Appendix 3.10.3 (cont'd)

Toronto	January 10	Mr. Don Robertson, President, J. Walter Thompson Company, Mr. Jack Cronin, Excutive Vice-President, and Director of Canadian Operations, Mr. Richard Kostyra, Vice-President and Director or Communications, Mr. Neville Sargeant, Secretary-Treasurer, Mr. Alan Jones, Senior Vice-President of parent company, and Mr. Jerrold Beckerman, Mr. Paul Siren, Executive Secretary of Canadian Radio and Television Artists (ACTRA)
Toronto	January 11	Dr. Harold Crookell, Assistant Professor of International Business, Western University
Toronto	January 16	Mr. Anthony Adamson, Chairman, Province of Ontario Council for the Arts, Mr. Louis Applebaum, Executive Director of the Council Mr. Ronald Evans, Film and Literary Officer, Mr. Frank McEachren, Vice-Chairman, Mr. Arthur Gelber, Council Member Hon. Senator Keith Davey
Ottawa	January 17	Mr. David Trealeven, Mr. Albert Roy, M.P.P. for Ottawa East, Mrs. Sheila Bresalier, of the Committee for an Independent Canada,

Appendix 3.10.3 (cont'd)

Ottawa	January 17	Mr. John Harney, M.P. for Scarborough West, Mr. Peter Riley, M.P. for Ottawa West
Ottawa	January 18	Mr. Geoffrey Wastneys, President, Wastneys Associated, Consultants Ltd., Mr. Alexander Cullen, President, Ontario Student Liberals
Hamilton	January 23	Mr. Bruce Beaumont, Mitchell, Ontario, Mr. Ralph Ellis, Chairman, Hamilton Committee for Independent Canadian Unions, Mr. Michael Kurk, Stoney Creek, Ontario, Mr. J. Malzan, National Canadianization Committee, Hamilton, Mr. Harold Dixon, and Mr. Robert Brechin, members of the Hamilton Chamber of Commerce, Taxation Committee, Mr. Robert Mackenzie, Staff Represenative, United Steel Workers of America, Hamilton, Professor S.J. Frankel, Dean of the Faculty of Social Sciences, MacMaster University, Dr. Grayson, and Dr. McKie, Lecturers, Department of Sociology, University of Western Ontario
Windsor	January 24	Mr. Michael Waffle, Professor J. Alex Murray, International Business, University of Windsor, Dr. R. G. Quittenton, President, St. Clair College,

Appendix 3.10.3 (cont'd)

Windsor	January 24	Dr. Lloyd Brown-John, Department of Political Science, University of Windsor, Mr. M.M. Sumner, President, Sumner Printing Limited, Mr. Edward H. Donnlelly, Ms. Shirley Bradley, Mr. Gerald Romsa, Mr. Bruce Gunn, Mr. Tom Roden, Mr. Dean LaBute
Timmins	January 30	Michael Farrell, President, Cochrane South, New Democratic Party, Douglas Little, Mr. Thomas E. Bell, His Worship Mayor Leo Delavalano, Mr. Cecil Hewitt, General Manager, North Eastern Ontario Development Corp., Alderman Michael Doody, City of Timmins, Alderman Alan Pope, City of Timmins
Tunder Bay	February 1	Miss Diane Robinson, on behalf of 85% Canadian Quota Campaign, Mr. Louis Peltier, Thunder Bay, Ms. Rita Ubriaco
Toronto	February 13	Dr. D. Carleton Williams, President, University of Western Ontario, and Dr. John B. Macdonald, Executive Director of the Council of Ontario Universities
Toronto	February 15	Dr. Robert Haynes, Chairman of the Biology Department of York University, Dr. Jill Conway, Vice-President, (Internal Affairs), University of Toronto

Appendix 3.10.3 (cont'd)

Toronto	February 20	Dr. Stefan Dupre, Chairman of the Department of Political Economy, University of Toronto, Dr. James A. Gibson, President of Brock University
Toronto	February 21	Dr. John Porter, Sociology Department, Carleton University
Toronto	February 28	Mr. A.J. Herridge, Assistant Deputy Minister of Natural Resources, Mr. J.W. Giles, Assistant Deputy Minister of Lands and Waters, Mr. Gordon Simons, Supervisor, Control Section, Division of Lands, Mr. Grant Ferguson, Q.C., Director Legal Services Branch, Ministry of Natural Resources
Toronto	March 1	Mr. C. Peter Honey, Deputy Minister for Urban and Regional Planning, Mr. Eric Flemming, Executive Director for Urban and Regional Planning, and Mr. Donald Taylor, Executive Director, Local Government Services Division, Ministry of Treasury, Economics and Intergovernmental Affairs, Honourable Jack McNie, Minister, Colleges and Universities
Toronto	March 6	Dr. K. Jean Cottam, Mr. Barry Lord and Mrs. Denise Havers, 85% Canadian Quota Campaign

Appendix 3.10.3 (cont'd)

Toronto	July 24	Mr. Robert Sirman, Executive Officer, Provincial Secretariat for Social Development
Toronto	July 25	Mr. Donald Martyn, Executive Director, Community Services Division, Ministry of Community and Social Services
Toronto	July 30	J. Douglas McCullough, Cultural Affairs, Ministry of Colleges and Universities
Toronto	August 14	Mr. C.F. Bray, of the Federated Council of Sales Finance Companies, Mr. H. Freure, Chairman of H.U.D.A.C., (Ontario Housing Council), Mr. E.W. Assaly, immediate past chairman of the Ontario Council, Mr. M. Lalande, member of the Council Executive. Mr. D. Ward, Vice-Chairman, Mr. Peter Stevens, staff member of the Ontario Council
Toronto	August 15	Mr. A.G. Buk, Assistant Vice-President, International Division, Metropolitan Trust Company, Mr. A. J. Russell, Vice-President, Administration, Metropolitan Trust Company
Toronto	August 16	Mr. A.R. Grant, Wimpey Homes Limited, Mr. R.A. Wykes, Monarch Homes Ltd.
Toronto	September 5	Mr. Kenneth Rotenberg, President, Mr. A.E. Diamond, Vice-President,

Appendix 3.10.3 (cont'd)

Toronto	September 5	Mr. W. Mowbray Sifton, Vice-President, Mr. Garth Macdonald, Q.C., Executive Director of the Canadian Institute of Public Real Estate Companies
Toronto	September 6	Mr. C.H. Bray, Executive Director of the Federated Council of Sales Finance Companies, and Mr. Clarke Brain, Vice-President Traders Group Limited
Quebec City	January 29, 1974	Mr. J. Douglas McCullough Assistant Deputy Minister, Cultural Affairs, Minister of Colleges and Universities, Consultant, Mr. Guy Fregault, Deputy Minister of Cultural Affairs, Mr. Marcel Junius, Director of Historical Sites Restoration, Heritage Cultural Branch, Gaston Harvey, Director of External Cultural Relations, and Mr. M. Dagneau, and Mr. M.Y. Ledene, Honourable Jean-Paul L'Allier, Minister of Communications
Quebec City	January 30	Honourable Paul Phaneuf, Minister of Youth and Sports, The Speaker, Clerk and Deputy Clerk of the Quebec National Assembly

Appendix 3.10.3 (cont'd)

Toronto	February 22	Mr. Omer Deslauriers, Chairman, Mr. Remy Beauregarde, Secretary, Mme. Angelique Gravelle, Association Canadian-Francaise de l'Ontario

SOURCE: Ontario, Select Committee on Economic and Cultural Nationalism, Report of the Select Committee on Economic and Cultural Nationalism, Final Report (Toronto: Queen's Printer, 1975), pp. 124-134.

Appendix 3.10.4

A SUMMARY OF RECOMMENDATIONS MADE BY THE SELECT COMMITTEE ON FOREIGN OWNERSHIP OF ONTARIO REAL ESTATE

Ownership of Real Estate by Individuals:

1. The Committee recommends, subject to recommendation 2, that all future transfers of legal or equitable (including leasehold) interests in real property in Ontario to individuals, directly or indirectly, be restricted to Canadian citizens and landed immigrants resident in Canada.

2. The Committee recommends that individuals who are neither Canadian citizens nor resident landed immigrants be entitled to lease real property in Ontario for a maximum period of 1 year without option of renewal being included in the arrangement.

3. The Committee recommends that persons who, subsequent to the implementation of recommendation 1, acquire real property in Ontario (other than by short-term lease) as landed immigrants resident in Canada, and who subsequently lose their resident landed immigrant status other than by becoming Canadian citizens, be required to dispose of property so acquired within three years of the effective date of their change in status.

4. The Committee recommends that individuals otherwise ineligible to acquire real property in Ontario who are designated as beneficiaries of real property in Ontario under a will or intestacy be required to dispose of the property so acquired within three years.

5. The Committee recommends that municipalities in Ontario be empowered to levy a surcharge of up to 50% of the real property tax otherwise applicable in respect of land owners in Ontario not ordinarily resident in Canada.

6. The Committee recommends that the policy with respect to real estate on which property tax obligations are in default be reviewed with particular attention to public advertisement, notification to adjoining owners, auctioning and tendering, and uniformity of procedure.

Appendix 3.10.4 (cont'd)

Commercial and Corporate Real Estate Ownership:

7. The Committee recommends, subject to recommendation 8, that all future acquisitions of land in Ontario other than by individuals be restricted to corporations or ventures not less than 75% owned by Canadian citizens, or landed immigrants resident in Canada.

8. The Committee recommends that corporations less than 75% owned by Canadian citizens or resident landed immigrants, who can establish that it is bona fide in the nature of their business to acquire land on a regular basis for real estate development or finance, have the option of becoming 75% owned by Canadian citizens or resident landed immigrants as a condition of being entitled to continue to acquire land during the period required to obtain a fair price for the corporations' shares on the Canadian market.

9. The Committee recommends that corporations or ventures less than 75% owned by Canadian citizens or resident landed immigrants be entitled to obtain leasehold interest in land in Ontario on terms appropriate to their commercial needs.

10. The Committee recommends that suitable procedures be devised, consistent with the Committee's overall recommendations and objectives, to assure that mortgagees irrespective of ownership are accorded suitable remedies on default of mortgage obligations.

11. The Committee recommends that foreign ownership of or investment in real estate other than land in Ontario should be investigated further as a priority matter, with a specific view to assessing the desirability of extending the Committee's recommendations regarding commercial and corporate ownership of land to all real property in the province. A study should include an examination of:

    (a) the role of foreign investment in the behavior and performance of markets for and development of real estate other than land in Ontario;

    (b) the extent and nature of Ontario's requirements, if any, for foreign capital for real estate development;

    (c) the other various aspects of foreign ownership of or investment in real property other than land identified in the foregoing discussion.

Appendix 3.10.4 (cont'd)

Public Land and Public Access:

12. The Committee recommends that the amount of Crown land made available for leasing for cottage lot purposes, and its distribution across various regions of the province, be more systematically geared to Canadian demand, having regard to the amount of Crown land available and the long term recreational needs of present and future generations in Ontario.

13. The Committee recommends that Crown land for cottage lots be leased only to Canadian citizens and landed immigrants resident in Canada.

14. The Committee recommends that no Crown lands be patented to other than Canadian citizens or landed immigrants resident in Canada, or to corporations or ventures less than 75% owned by Canadian citizens or landed immigrants resident in Canada. The Committee recommends that other corporations or ventures be entitled to lease Crown land, where appropriate, on appropriate terms and conditions.

15. The Committee recommends that the Government intensify its efforts to increase the availability and distribution of public recreation facilities and to devise long term solutions to providing ready public access to the various kinds of amenities which Ontario's natural heritage affords.

16. The Committee recommends that to the extent possible, and consistent with its previous determinations in regard to foreign ownership of land, the policy and practice in respect of surface rights in connection with mining be developed to accommodate a variety of uses simultaneously, including public access for recreation purposes.

17. In respect of forest lands, the Committee similarly recommends that efforts be intensified towards developing appropriate multiple use solutions for these lands, consistent with the Committee's other recommendations on land ownership.

Information:

18. The Committee recommends that the Government prepare and publish, on an annual basis, detailed ownership and

Appendix 3.10.4 (cont'd)

residence data by region and by use, for land owned both by individuals and corporations in the province. The Committee further recommends that such data be developed in a manner which will generally support and facilitate the ongoing analysis of the behaviour and performance of real estate markets and institutions in Ontario.

Constitutional Issues:

19. The Committee recommends that the Government of Ontario take the position that legislation of the kind the Committee has recommended with respect to real property in the province is within the powers of the province.

Implementation:

20. The Committee recommends review and implementation of its recommendations as a matter of urgency and priority, and that consideration be given to the early promulgation on a date on which the implementation of the Committee's recommendations would take effect.

SOURCE: Ontario, Select Committee on Economic and Cultural Nationalism, Interim Report: Foreign Ownership of Ontario Real Estate (Toronto: Queen's Printer, 1973), pp. 53-54.

Appendix 3.10.5

PASSAGE THROUGH THE LEGISLATIVE ASSEMBLY OF BILL 25 - THE LAND SPECULATION TAX ACT, 1974

Tuesday, April 9, 1974	Bill 25 - The Land Speculation Tax Act, 1974 was introduced by Minister of Revenue, Aruthur Meen who moved first reading of the bill. The motion was carried.
Monday, April 29, 1974	The Minister of Revenue moved second reading of Bill 25. Debate occurred between the Progressive Conservative, Liberal and NDP parties for approximately two hours. Liberal D. Paterson then moved that debate be adjourned. The motion was carried. Debate continued that evening between all three parties for approximately two and a half hours. Chairman of the Management Board of Cabinet, Eric Winkler, then moved that debate be adjourned. The motion was carried.
Moday, May 6, 1974	Debate continued between all three parties for approximately two hours. NDP member Michael Cassidy then moved that debate be adjourned. The motion was carried. Debate continued that evening between all three parties for approximately three hours. The House then voted on Bill 25 which was then accordingly read a second time and ordered for the Committee of the Whole. The motion was carried.
May 7, 9, 14, 16, 21, 23, 27, 28, 30, 1974	At the Committee of the Whole debate occurred between all three parties for nine days for approximately three to five hours each day. On May 30, Chairman of the Committee, R. D. Rowe, reported as usual progress on the bill and asked for leave to sit again. The report was agreed to.

Appendix 3.10.5 (cont'd)

Monday, June 3, 1974	The Minister of Revenue moved that Bill 25 be read a third time. Debate occurred between all three parties for approximately two hours. NDP member Ian Deans then moved that debate be adjourned. The motion was carried. Debate continued that evening between all three parties for approximately two hours. The Minister of Revenue then moved that Bill 25 be read a third time. The House divided on the motion elected to vote on the bill. The vote was affirmative and Bill 25 was accordingly read a third time, passed and later given Royal Assent.

SOURCE: Ontario, Legislature of Ontario Debates, April, 1974, pp. 1023, 1472-1494 and 1511-1543; Legislature of Ontario Debates, May, 1974, pp. 1732-1760, 1773-1799, 1818-1847, 1927-1997, 2102-2127, 2135-2162, 2184-2209, 2215-2234, 2293-2318, 2323-2353, 2372-2396, 2401-2418, 2479-2493, 2507-2537, 2557-2580, 2585-2619, 2648-2674 and 2681-2695; and Legislature of Ontario Debates, June, 1974, pp. 2754-2775, 2785, 2789-2808 and 2812.

Appendix 3.10.6

PASSAGE THROUGH THE LEGISLATIVE ASSEMBLY OF BILL 26 - THE LAND TRANSFER TAX ACT, 1974

Tuesday, April 9, 1974	Bill 26 - The Land Transfer Tax Act, 1974 as introduced by Minister of Revenue, Arthur Meen, who also moved first reading of the bill. The motion was carried.
Friday, April 19, 1974	The Minister of Revenue moved second reading of Bill 26. Debate occurred for approximately a hour and a half between the Progressive Conservative, Liberal and NDP parties. Debate was then adjourned by Chairman of the Management Board of Cabinet, PC member Eric Winkler.
Monday, April 22, 1974	Debate resumed on Bill 26 for approximately a hour and a half and a vote was then taken on the bill. The bill was accordingly read a second time and ordered for the Committee of the Whole House by the Minister of Revenue.
Tuesday, April 23, 1974	At the Committee of the Whole House all three parties debated the bill for approximately one hour and a half. Winkler then moved that the Committee rise and report progress and ask for leave to sit again. The motion was carried.
Wednesday, April 25, 1974	The Committee resumed debate on the bill by all three parties for approximately a hour and a half. Minister of Energy, Darcy McKeough, then moved that the Committee rise and report the bill with certain amendments. The motion was carried.

Appendix 3.10.6 (cont'd)

Thursday, April 26, 1974	The Speaker of the House, Allan Reuter moved that Bill 26 be read a third time. The motion was carried. Bill 26 was later given Royal Assent that day.

SOURCE: Ontario, Legislature of Ontario Debates, April, 1974, pp. 1024, 1167-1192, 1210-1235, 1262-1286, 1315-1368, 1436, 1452, and 1456.

Appendix 3.10.7

PASSAGE THROUGH THE LEGISLATIVE ASSEMBLY OF BILL 60 - AN ACT TO REQUIRE THE REGISTRATION OF NON-RESIDENT INTERESTS IN AGRICULTURAL LAND IN ONTARIO

Tuesday, April 29, 1980	Bill 60 - An Act to require the Registration of Non-resident Interests in Agricultural Land in Ontario was introduced by Minister of Agriculture and Food, Lorne Henderson, who moved that the bill be read a first time. The motion was carried.
Monday, June 9, 1980	The Minister of Agriculture and Food moved second reading of Bill 60. Debate occurred for approximately two and a half hours between the Progressive Conservative, Liberal and NDP parties. Upon completing second reading, the Legislature resolved itself into the Committee of the Whole. At the Committee, debate occurred for approximately ten minutes between all three parties. Bill 60 was then accordingly reported with amendments by the Chairman of the Committee, J. Macbeth.
Tuesday, June 17, 1980	Bill 60 was read a third time, passed and given Royal Assent.

SOURCE: Ontario, Legislature of Ontario Debates, April 29, 1980, p. 1232; and Legislature of Ontario Debates, June, 1980, pp. 2640-2664.

Chapter 4

POLICY-MAKING IN SASKATCHEWAN

This chapter investigates Saskatchewan's response to the issue of alien and non-resident land ownership. In so doing, it notes two major determinants of the province's response -- the importance of agriculture to the Saskatchewan economy and the governing New Democratic Party's ideological opposition to foreign investment. The chapter also shows how the provincial government was forced to pass increasingly restrictive amendments to its legislation during the 1970s.

Prior to the 1970s, there were only limited restrictions on alien and non-resident land ownership in Saskatchewan. From 1944 to 1964, the provincial government, under the Co-operative Commonwealth Federation (CCF) party, refused to sell recreational Crown land.[1] But this policy changed between 1964 and 1971 when the province's Liberal government sold tracts of recreational Crown land to aliens and non-residents.[2] The only restrictive measure implemented by Premier Thatcher's Liberal government was the Forest Regulations filed September 6, 1967 and passed pursuant to The Forest Act.[3] One relevant section of these regulations provides that "the Minister may enter into a forest management license agreement, for a period up to 20 years, with any company incorporated under the laws of the province, thereby providing for the company the rights to certain

timber as may be specified in the agreement on a management license area."[4] The other relevant section is section 63 which provides that the "Minister may grant seasonal or annual permits, or term permits for period not exceeding ten years, for the grazing of livestock in provincial forests"[5] subject to a number of conditions. One of the conditions is section 63 (b) which provides that "applicants who are Canadian citizens and residents of Saskatchewan shall be given preference over other applicants."[6]

To explain Saskatchewan's policy on alien and non-resident land ownership during the 1970s, it is necessary to outline briefly the New Democratic Party's general position on foreign investment. The NDP, under Allan Blakeney's leadership, won the June 1971 provincial election taking 45 of 60 seats.[7] The Blakeney government was opposed to certain forms of foreign ownership. Indeed, during the 1971 election campaign the party proposed to curb foreign and corporate ownership of farms.[8] Evidence of the NDP's views in this matter are found in a March 1973 survey by Garth Stevenson which revealed that Saskatchewan NDP M.L.A.s were unanimous on restricting foreign investment "even if this meant a lower standard of living."[9] As well, the Saskatchewan NDP government supported Ottawa's Foreign Investment Review Act in 1973.[10] Saskatchewan's potash industry was also nationalized by the NDP provincial government in 1976.[11] Yet another example of the government's position on foreign investment is the Budget Speech delivered by the Minister of Finance, Ed Tchorzewski on March 13, 1980. In this speech, Tchorzewski noted

that a large part of Canada's poor economic performance was a direct result of "an unacceptably high degree of foreign ownership"[12] in the Canadian economy.

In terms of land, the NDP government's first effort was Bill 115, An Act respecting the Foreign Ownership of Agricultural Lands in Saskatchewan introduced by Minister of Agriculture, J. R. Messer, on April 20, 1972. The Minister (as a farmer and Secretary of the Wheat Pool Committee) defended the bill by noting that the purchase of agricultural land by non-residents posed a danger to family ownership and operation of farms.[13] Here it should be noted that Saskatchewan ranks first among the provinces for the total area devoted to farm land: 65 million acres in total and 71.1 acres per capita.[14] With 102,000 square miles of occupied land, Saskatchewan also accounts for nearly 38 per cent of the Canadian total, while its 72,000 square miles of improved land constitutes 42 per cent of Canada's total.[15] To protect agriculture in the province, Bill 115 prohibited "non-residents" from acquiring certain amounts of land but did not specify the exact amount. "Non-resident persons" as defined in the bill included Canadian residents outside of Saskatchewan. As section 2 (d) states:

> "non-resident person" means:
>
> (i) an individual who is not domiciled in Saskatchewan;
>
> (ii) a partnership in which 50 per cent or more of the partners are individuals described in subclause (i) or bodies corporate described in subclause (iii) or are a combination of such individuals and bodies corporate;

(iii) a body corporate the head office of which is not situated in Saskatchewan and the majority of the shares, or a majority of the voting shares, of which are owned by individuals not domiciled in Saskatchewan or by bodies corporate the head offices of which are not situated in Saskatchewan; or

(iv) any combination of the individuals, partnerships or bodies corporate mentioned in subclauses (i), (ii) and (iii); [16]

Liberal Leader D. Steuart described the bill as one of the most "terrible pieces of legislation" that his party had ever seen.[17] He stated that his party would not oppose the bill if the government made major changes to it.[18] E. A. Boden, President of the Saskatchewan Federation of Agriculture and Walter Nelson, President of the Palliser Wheat Growers Association also stated that they "were disturbed by the intention to bar other Canadians from owning Saskatchewan farm land."[19] In contrast, Roy Atkinson, President of the National Farmer's Union in Saskatchewan supported the legislation. He argued that it "should be stiffened to force outside firms now owning land in the province to sell to Saskatchewan residents."[20]

Another relevant issue was whether a province could legally restrict the rights of Canadians living in other provinces. An editorial in the Regina Leader-Post argued that the bill might be unconstitutional since "in setting up two separate classes of Canadians, that is Saskatchewan Canadians and 'other' Canadians, it may have encroached seriously on that area of civil rights assigned

to the federal government to protect."[21] In August 1972, Douglas Schmieser, a University of Saskatchewan law professor expressed a similar view by noting that this "could be a very difficult argument. . . . It presents a constitutional hurdle."[22] The Federal Minister of Justice, Otto Lang, also warned the provincial government that the bill might be unconstitutional.[23] In response, Agriculture Minister Messer stated that "the government fully intended that Canadian people in other provinces would continue to be able to acquire and own agricultural land in Saskathewan."[24] This was made possible by section 14 of the bill which empowered the the Lieutenant Governor in Council to exempt non-residents. Since the government announced early during second reading that the bill would not pass second reading, the bill was never tested in the courts. Instead, it was referred for further study to a legislative committee - the Special Committee on the Ownership of Agricultural Lands.[25] This committee was empowered "to consider the questions of foreign ownership and corporate ownership of agricultural land."[26]

4.1 Special Committee on the Ownership of Agricultural Lands

The special committee comprised the Minister of Natural Resources, J. R. Kowalchuk, seven NDP M.L.A.s and three opposition Liberals.[27] All but three of the committee members were farmers. It submitted its final report to the Legislative Assembly on March 23, 1973.[28]

In preparing its report, the committee visited North Dakota and Colorado and met with officials, legislators and farmers. It also held 13 public hearings in Saskatchewan during July and August 1972. At these public hearings, 40 briefs were presented (see Appendix 4.6.1). These included briefs from the National Farmer's Union, Gulf Oil Canada Limited and the Saskatchewan Chamber of Commerce. A brief submitted by the Saskatchewan Federation of Agriculture "expressed the view that it was necessary to consider restrictive legislation because of the absence of many positive policies which would put farmers into a financial position where they could compete effectively for the purchase of land."[29] The brief also requested that "non-Saskatchewan Canadians should be be classified as foreigners."[30]

The special committee also distributed a questionnaire at its public hearings "in order to give people who were reluctant to express their views verbally at the public hearings or those unable to attend the hearings, a chance to express their opinions."[31] While only 119 questionnaires were completed, the tiny sample did indicate that 64 per cent of respondents favoured restrictions on non-Canadians owning land.[32]

The committee also decided to survey land ownership patterns in the province. To do so, the committee "sent a questionnaire and an explanatory letter to each of the 292 Rural Municipalities and each of the nine Local Improvement Districts in the province."[33]

There was a good response to this initiative since "87.37 per cent of the total taxable agricultural land in the province was covered by the 263 questionnaires which were returned."[34] From these returns the committee estimated that only 0.97 per cent of the agricultural land in Saskatchewan was owned by aliens. Statistics provided in the committee's report also indicated that land ownership by Canadians outside Saskatchewan was greatest for the western provinces bordering Saskatchewan (see Appendix 4.6.3).

The committee reported in March 1973. It recommended that the legislature enact legislation entitled "The Family Farm and Community Group Agricultural Incorporation Act"[11] (see Appendix 4.6.4). At the heart of the committee's proposals was the recommendation "that no one except a Canadian citizen or landed immigrant [be allowed to] acquire by purchase, gift, inheritance or other means except from the spouse, any agricultural land in Saskatchewan."[35] In so recommending, the committee recognized that there was still considerable uncertainty about the bill's constitutional status. In response it proposed that Ottawa should be pressured to amend the Canadian Citizenship Act so that "a province could enact legislation prohibiting the holding or the acquisition of real property by aliens."[36]

Two minority reports were also submitted with the final report. One report by two NDP M.L.A.s argued that several proposed restrictions on corporations were too drastic. The other minority report, written by the three Liberal M.L.A.s, was much more critical.

They agreed only with those recommendations which called for further information or research.[37]

4.2 An Act to Regulate the Ownership and Control of Agricultural Land in Saskatchewan

Legislation was finally introduced in early 1974 when the Minister of Agriculture, John Messer, unveiled Bill 79, An Act to Regulate the Ownership and Control of Agricultural Land in Saskatchewan (generally cited as the Saskatchewan Farm Ownership Act). The bill, which was passed on March 31, 1974, limited the ownership of agriculture land by non-residents of the province to an assessed aggregate land holding of no more than $15,000. Non-agricultural corporations holding land, that had been aequired before the legislation was passed were given until January 1, 1994, to divest such land in excess of the 160 acre limit. Agricultural corporations were defined in the act as corporations or co-operatives primarily engaged in agricultural production and at least 60 per cent owned and controlled by resident farmers. Non-resident persons were defined as persons who lived outside Saskatchewan for more than half of each year. Farmers who lived within 20 miles of the border of Saskatchewan were the only other persons who were treated as residents of Saskatchewan. Agriculture Minister Messer stated that the restrictions were based on residency rather than citizenship since "the power of the province to legislate anything on the basis

of citizenship was seriously open to question."[38] The Minister added "until the Prince Edward Island case is settled (in the Supreme Court of Canada) there remains some slight doubt about the constitutionality of the Farm Ownership Act. But our advisers say that controls based on residency have a much greater chance of standing up in court than ones based on citizenship."[39] The Minister also stated that the underlying goal of the bill was to protect the family farm.[40] And in defending the bill, the Minister noted that the government was anticipating increased purchases by non-residents in response to increasing grain prices. He also stated that the government believed that Canadian and American corporations were looking for other areas to invest their record-breaking profits made in 1973.

The Saskatchewan Farm Ownership Board was established to administer the act. It reported to the Minister of Agriculture and since 1976, has comprised five members. The board's responsibilities include monitoring all rural land transfers in the province, making policy decisions under the act, holding hearings for requests for exemptions and making divestment orders in the event of violations. As a further safeguard, section 20 of the act provides that "anyone dissatisfied with a board ruling may appeal to a judge of the Court of Queen's Bench."[41] For persons that contravene the act, there are fines of up to $5,000 and/or jail terms. Corporations that contravene the act are subject to fines up to $50,000 and/or jail terms up to six months.

The legislation was supported by Saskatchewan's farm community. Agriculture Minister Messer noted that in 1974 both the National Farmer's Union and the Saskatchewan Wheat Pool issued policy statements in support of restrictions on non-resident land ownership. In March, the Saskatchewan Federation of Agriculture also requested controls on non-agricultural corporations.[42] During the same month that year, a delegation of farmers had met with the Premier, Messer and NDP M.L.A. Pepper about the potential sale of a tract of agricultural land to Americans.[43] Messer also stated that the bill stemmed from the select committee's consultations with farmers, farm organizations, and other interested groups in 1972.

The provincial Liberals, the official opposition, opposed the act. Their leader, D. Steuart, argued that it would further "balkanize" the country by restricting Canadian residents and corporations outside the province from purchasing land in Saskatchewan. Steuart also argued that the act was too narrow since it ignored the problem of aliens purchasing recreational and hunting land.[44] But the NDP's neglect of recreational land probably resulted from the fact that only 37.9 per cent of the Saskatchewan's area is privately owned. The remaining area is essentially provincial Crown land and a very small amount of land under federal jurisdiction (see Appendix 4.6.1). The NDP does not lease vacant Crown lands to aliens.[45]

4.3 An Act to amend the Saskatchewan Farm Ownership Act, 1974

In March 1978 the government significantly amended the Saskatchewan Farm Ownership Act when it introduced Bill 6, An Act to amend The Saskatchewan Farm Ownership Act, 1974 (see Appendix 4.6.8). The Minister of Tourism and Renewable Resources, J. R. Kowalchuk, stated the legislation was needed to protect the province's agriculture sector.[46] The bill was also a response to a number of other factors. For example, in June, 1974, the government-funded Environmental Advisory Council (composed of citizens representing various interest groups) submitted a report entitled Land Use Policies in Saskatchewan to the Minister of the Environment, Neil Byers.[47] The report recommended the establishment of a task force to study land use problems. This recommendation was rejected. Instead, the government decided to organize a provincial workshop on land use policy for the purpose of divining public concern and opinion. The Minister invited several organizations to name delegates to a workshop to be held at Echo Valley Centre, Fort San, Saskatchewan from February 25 to 27, 1976.[48] A list of the participants and organizations are provided in Appendix 4.6.6. While alien and non-resident land ownership was recognized as an important issue, no recommendations or guidelines were formulated by the workshop. But the situation changed at the second land use workshop in April 1977. The second workshop went further than its

predecessor and was able to establish a consensus on the issue of alien land ownership. It argued that to retain the integrity of family farms and rural communities, it was necessary to restrict further foreign ownership of land. The existing policy was not restrictive enough.

A similar recommendation was made by the Saskatchewan Farm Ownership Board whose 1976-77 annual report noted that "non-resident individuals purchased a total of 164,833 acres (258 sections) of Saskatchewan farm land in the 1976-77 fiscal year of which non-resident Canadians purchased 115,304 acres (180 sections) and individuals residing outside of Canada purchased 49,529 acres (77 sections)."[49] In 1977, the Board again formally recommended to the Minister of Agriculture that the act be amended to further limit non-resident land ownership.

Such concerns were recognized by the government when on September 14, 1977, the Minister of Agriculture announced that the limitation on non-resident holdings would be reduced from the $15,000 assessed value limitation to 160 acres effective September 15, 1977.[50] In support of these changes, the government noted that in 1977 a group of Toronto investors paid $1.2 million for 4300 acres of land in the Cupar district in 1977.[51] It was not until December 21, 1977, however, that the 160 acre limitation was introduced by Agriculture Minister Edgar Kaeding in the form of Bill 59, An Act to amend The Saskatchewan Farm Ownership Act, 1974. On May 12, 1980, the Agriculture Minister, G. MacMurchy, also revealed that the bill

was a response to pressure exerted by the Saskatchewan Wheat Pool, the Saskatchewan Association of Rural Municipalities, the United Grain Growers, the National Farmer's Union and the Saskatchewan Federation of Agriculture.[52]

Bill 59 was not passed but was re-introduced as Bill 6 in 1978. Section 8.1 of the new bill contained a provision which amended the $15,000 assessed value limitation and reduced the restricted amount to 160 acres retroactive to September 15, 1977. Section 12 also provided five years to non-agricultural corporations "to dispose of excess land holdings acquired by device or through a will."[53] The Saskatchewan Farm Ownership Board may have had some impact on this latter section since the Board's 1976-77 annual report mentioned that it was recommending regulations for land willed to non-agricultural corporations in the 1977-78 fiscal year.[54] The act also doubled the amount of fines levied. It also expanded extensively the Board's investigative authority.

The Liberal and Progressive Conservative parties supported the principle of Bill 6. But the Liberals now favoured even more sweeping restrictions. The Conservative spokesman noted that his party still preferred a special non-resident tax on agricultural lands owned by foreigners as the best approach to the problem.

4.4 An Act to amend The Saskatchewan Farm Ownership Act

Further changes were found in Bill 109, An Act to amend The Saskatchewan Farm Ownership Act, introduced by the Minister of

Agriculture, G. MacMurchy, on May 7, 1980 (see Appendix 4.6.9). This bill limited the amount of land owned by non-resident individuals and non-agricultural corporations to a maximum aggregate holding of no more than 10 acres effective May 6, 1980. Non-agricultural corporations had to also reduce their "aggregate landholding to no more than ten acres by January 1, 1994."[55] The act also provided that farmers living outside the province, but within 20 miles of the Saskatchewan border would no longer be considered Saskatchewan residents. These farmers would now require a written exemption from the Saskatchewan Farm Ownership Board if they wish to acquire additional land.

There were a number of reasons for these changes. MacMurchy stated that amendments to the act were motivated by difficulties experienced with the powers of the Saskatchewan Farm Ownership Board. He noted that corporations "were incorporated outside the province, which resulted in the Board having no power of investigation."[56] The Minister also stated that the bill was passed in order to protect the province's agriculture sector and to bring the "legislation into line with restrictions in force in other provinces."[57] Both Quebec and Prince Edward Island, for example, had imposed a 10 acre limit on non-resident ownership of farm land while in Alberta and Manitoba, the Progressive Conservative governments enforced a 20 acre limit on non-resident ownership of farm land (see Appendix 7.1). Barry Wilson noted some of the problems posed by different policies in adjacent provinces:

> One of the quirks of provincial land protection policies is that success in one province often means problems for a neighbouring jurisdiction. In Saskatchewan, the Saskatchewan Farm Ownership Board's (Director Harley) Olsen says the obvious success of Manitoba's and Alberta's legislation in reducing individual foreign investment has meant an upsurge of foreign land buyers in Saskatchewan, where the rules are not as strict.[58]

According to the Minister, the bill was also a response to a resolution unanimously passed at the last annual meeting of the Saskatchewan Association of Rural Municipalities (SARM).[59] At that meeting, SARM delegates called for an outright prohibition of non-resident land purchases (rather than the 10 acre limit eventually introduced by the government). SARM's concern was probably motivated both by the organization's own observations as well as by concern expressed by the Saskatchewan Farm Ownership Board. In July 1978, for example, Jake Brown, Chairman of the Saskatchewan Farm Ownership Board stated publicly that non-residents and non-agricultural Saskatchewan farm land had increased from one per cent of the land to about three per cent.[60] He later stated that "in some southern Saskatchewan municipalities, there were more parcels bought by foreign interests last year (1979) than in the previous four years."[61] Brown predicted that the government would impose more stringent restrictions.

The Progressive Conservative leader, E. A. Berntson, stated that his party would support the bill because its intent was to limit speculation on farm land in Saskatchewan.[62] He added, however, that his party still saw a tax on non-resident land ownership as the best response.

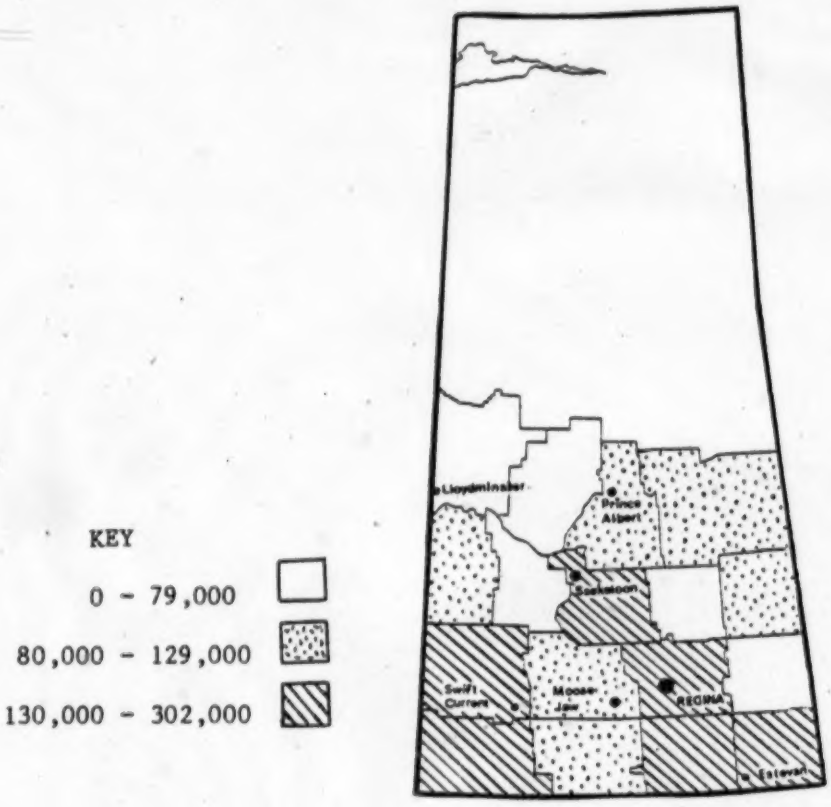
Since the 1980 amendments, some of the problems associated with the Saskatchewan Farm Ownership Act appear to have been alleviated. This was suggested by Agriculture Minister MacMurchy on April 23, 1981 when he stated that reports from the Board indicated that the 1980 amendments to the act were "doing the job they were intended to do."[63] On the other hand, later reports from the Board indicate that while this type of investment is not increasing significantly, it remains a problem. For example, in the 1981/82 fiscal year, purchases by non-resident individuals and corporations totalled 61,800 acres in contrast to 58,809 acres in 1980/81.[64] Future amendments to the act are conceivable, since the Progressive Conservative party won the April 26, 1982 provincial election. As noted earlier, this party's policy has long called for a tax on non-resident land ownership. This position was expounded by Grant Devine, who is now the Premier, in August, 1980.[65] The 35 year old agricultural economist who was selected as party leader in November 1979[66] (but who did not win a legislative seat until the 1982 election), stated that "the laws such as the Farm Ownership Act and its recent amendments, contribute to balkanization of the country."[67] During the 1982 provincial election campaign this issue was not widely debated.[68] However, recent reports from the Saskatchewan Farm Ownership Board indicate that this type of investment is still a problem. In the 1982/83 fiscal year, purchases by non-resident individuals and corporations totalled 91,214 acres in contrast to 61,800 acres purchased in the 1981/82 fiscal year.[69]

A final issue is the nature of alien and non-resident land ownership in the province. H. D. Olsen, Director of the Saskatchewan Farm Ownership Board notes that the major concentration of buying in the province has been in Class 1 and 2 land in the fertile belt south and east of Regina.[70] Figure 1 also shows that this type of investment tends to be in urbanized areas such as Saskatoon, Swift Current, and Regina. Americans, West Germans and Western Canadians are the most prominent "non-resident" investors in the province. A paper prepared by the Board entitled "Changes in Non-resident Land Holdings 1976-79" indicate that with the exception of one area (Census Division 13) all areas of the province experienced an increase in non-resident ownership since 1976. In total, "non-resident agricultural holdings in Saskatchewan increased from 1.7 million acres in March 1976, to 2 million acres by January 1979."[71] Absentee Canadians constituted a major portion of this increase. In 1979, for example, "of the 65 million acres of agricultural land in the province, non-residents living in Canada owned 2.12 per cent, those residing outside Canada owned 0.78 per cent and non-resident farmers residing within 20 miles of the Saskatchewan border owned 0.22 per cent."[72] These three groups of agricultural land holdings are illustrated in Appendix 4.6.10.

4.5 Conclusion

From the foregoing discussion, it becomes apparent that controls have arisen due to the importance of agriculture to the

Fig. 1. Alien and non-resident land holdings in Saskatchewan by census division in 1979.[1]



SOURCE: Mapping prepared by this writer is based on statistical data provided in Saskatchewan, Saskatchewan Farm Ownership Board, Changes in Non-Resident Land Holdings 1976-79, by Catherine Neumeyer, n.d.

[1]Non-residents include farmers residing within 20 miles of the Saskatchewan border. The Northern Administration District is excluded from this statistical mapping since no figures are available.

Saskatchewan economy and the governing New Democratic Party's opposition to foreign investment. However, the original legislation had to be substantially amended in order to increase its effectiveness for several reasons. First, Saskatchewan was one of the first provinces to introduce restrictive legislation. As such, it had little or no practical knowledge about how to make its legislation effective. And as other provinces implemented controls, Saskatchewan's legislation fell out of line with restrictions in force elsewhere. Another possible contributing factor for the amendments is that the initial controls were in response to an anticipated problem rather than an existing problem. This is significant since the government would less likely feel the need to introduce strict measures (as compared to the Ontario government when it felt it necessary to introduce strict measures to deal with high inflation in their land market.)

In general, interest groups, the public, and the media supported the principle of the legislation. However, it appeared that farm groups played the largest role in pressuring the government to act. The government was also responsive to their concerns since interest groups were provided an opportunity to submit briefs and presentations to the select committee studying this issue, as well as to express their concerns at two provincial land use workshops. The government was also indirectly pressured by the Saskatchewan Farm Ownership Board which suggested that the legislation was not effective.

A study of Saskatchewan's legislation also illustrates the role of ideology. For example, the NDP was in power for less than a year before it acted. Also, while opposition parties supported the principle of the bill, they differed on the proper policy response.

NOTES

[1]Saskatchewan, Debates and Proceedings, April 24, 1974, p. 2645.

[2]Ibid.

[3]Saskatchewan, O.C. 1583/67, Saskatchewan Gazette, Part 2, 1967, pp. 388-397.

[4]Ibid., p. 394.

[5]Ibid., p. 397.

[6]Ibid.

[7]John C. Courtney and David E. Smith, "Saskatchewan, Parties in a Politically Competitive Province," in Canadian Provincial Politics, ed. Martin Robin, 2nd ed. (Scarborough: Prentice-Hall of Canada, Ltd., 1978), p. 307.

[8]Regina Leader-Post, June 17, 1981.

[9]Garth Stevenson, "Foreign Investment and the Provinces: A Study of Elite Attitudes," Canadian Journal of Political Science, 7 (1974):630-647.

[10]Canada, House of Commons, Minutes of Proceedings and Evidence of the Standing Committee on Finance, Trade and Economic Affairs, 42:45.

[11]John Richards and Larry Pratt, Prairie Capitalism: Power and Influence in the New West (Toronto: McClelland and Stewart Limited, 1979), pp. 263-275.

[12]Debates and Proceedings, March 13, 1980, p. 1039.

[13]Debates and Proceedings, April 24, 1972, p. 1903.

[14]Canada, Department of the Environment, Lands Directorate, Saskatchewan, by E. Neville Ward (Ottawa: Minister of Supply and Services Canada, 1978), p. 84.

[15]Ibid. It should also be noted that "Saskatchewan, with nearly one million hectares, has more class 1 land than the other Prairie Provinces. Most of this high-capability land is located southeast of Prince Albert but relatively large areas are also found near Yorkton, Kamsack, and along the Qu'Appelle River east of Regina. Saskatchewan also possesses large quantities of class 2 and

3 soils, with 5,873,285 and 9,420,057 acres respectively." Canada, Department of the Environment, Lands Directorate, Canada's Special Resource Lands, by Wendy Simpson-Lewis et al (Hull: Canadian Government Publishing Centre, Supply and Services Canada, 1979), p. 5.

[16]Saskatchewan, Legislative Assembly, An Act respecting the Foreign Ownership of Agricultural Lands in Saskatchewan, Bill 115, April, 1972.

[17]Debates and Proceedings, April 29, 1972, p. 1907.

[18]Ibid., p. 1910.

[19]Regina Leader-Post, April 21, 1972.

[20]Ibid. See also Regina Leader-Post, April 22, 1972.

[21]Regina Leader-Post, April 26, 1972.

[22]Globe and Mail, August 1972. Cited from Alberta, Legislative Assembly, The Select Committee on Foreign Investment: Interim Report on Public and Private Lands and Supplementary Report (Edmonton: Queen's Printer, 1973), Appendix F, p. 3.

[23]Garth Stevenson, "The Control of Foreign Direct Investment in a Federation: Canadian and Australian Experience," in Political and Administrative Federalism, Research Monograph No. 14 (Canberra: Australian National University, 1976), p. 61.

[24]Select Committee on Foreign Investment, Interim Report. Appendix F, p. 3.

[25]Debates and Proceedings, April 27, 1972, p. 2051.

[26]Debates and Proceedings, April 24, 1972, p. 1904.

[27]The seven NDP M.L.A.s were Irving Carlson, Terry Hanson, Edgar Kaeding, Frank Meakes, Hayden Owens, Auburn Pepper and Ed Tchorzewski. The three Liberals were Tom Weatherald, Ken MacLeod and Jack Wiebe.

[28]Saskatchewan, Special Committee of the Legislative Assembly of Saskatchewan, Final Report of the Special Committee on the Ownership of Agricultural Lands (Regina: Queen's Printer, 1973).

[29]Canadian Federation of Agriculture et al, Working Paper on Land Use Policy (Ottawa: Canadian Federation of Agriculture, 1974), p. 26.

[30]Ibid., p. 27.

[31]Special Committee of the Legislative Assembly of Saskatchewan, Final Report of the Special Committee, p. 9.

[32]Ibid., p. 30.

[33]Ibid.

[34]Ibid., p. 31.

[35]Ibid., p. 37.

[36]Ibid.

[37]Ibid., p. 47.

[38]Debates and Proceedings, April 24, 1974, p. 2650.

[39]Ibid.

[40]Debates and Proceedings, April 3, 1974, pp. 2029-2030.

[41]Ward, Saskatchewan, p. 35.

[42]Debates and Proceedings, April 4, 1974, p. 2056.

[43]Debates and Proceedings, April 3, 1974, p. 2028.

[44]Debates and Proceedings, April 24, 1974, p. 2645.

[45]Federal-Provincial Committee on Foreign Ownership of Land, Report to the First Ministers, p. 20.

[46]Debates and Proceedings, April 10, 1978, p. 1235.

[47]Saskatchewan, Department of the Environment, Land Use Workshop Summary Report, April 1976, p. 1.

[48]Ibid.

[49]Saskatchewan, Department of Agriculture, Saskatchewan Farm Ownership Board, Annual Report of the Director of the Saskatchewan Farm Ownership Board, 1977 (Regina: Queen's Printer, 1977), p. 8.

[50]Ward, Saskatchewan, p. 100.

[51]Ibid. See also Debates and Proceedings, December 5, 1977, p. 574. Difficulties with the act were also suggested by the fact that one of the firm's secretaries was named as a purchaser in the land deal. This fact was noted by Minister of Agriculture, Edgar Kaeding in March, 1978. Regina Leader-Post, March 16, 1978.

[52]Debates and Proceedings, May 12, 1980, p. 2916.

[53]Saskatchewan, Department of Agriculture, Saskatchewan Farm Ownership Board, Provincial Policies Regarding the Purchase of Agricultural Land by Non-Residents and Corporations, n.d., p. 17.

[54]Saskatchewan Farm Ownership Board, Annual Report of the Director of the Saskatchewan Farm Ownership Board, 1977, p. 8.

[55]Department of Agriculture, Provincial Policies Regarding the Purchase of Agricultural Land, pp. 17-18.

[56]Debates and Proceedings, May 12, 1980, p. 2916.

[57]Ibid., p. 2915.

[58]Barry Wilson, Beyond the Harvest (Saskatoon: Western Producer Prairie Books, 1981), pp. 97-98.

[59]Debates and Proceedings, May 12, 1980, p. 2916.

[60]Saskatoon Western Producer, July 13, 1978.

[61]Saskatoon Western Producer, March 27, 1980.

[62]Debates and Proceedings, May 21, 1980, p. 3299.

[63]Debates and Proceedings, April 23, 1981, p. 2472.

[64]Saskatchewan, Department of Agriculture, Annual Report 1981-82, p. 43.

[65]Debates and Proceedings, March 24, 1981, p. 1377.

[66]Norman Ward, "Saskatchewan," in Canadian Annual Review of Politics and Public Affairs, 1979, ed. R. B. Byers (Toronto: University of Toronto Press, 1981), p. 366.

[67]Debates and Proceedings, March 24, 1981, p. 1377.

[68]On the other hand, Devine during the election promised to freeze new farm land purchases by the controversial Saskatchewan Land Bank Commission as well as to loan farmers up to $350,000 to buy farm land. Regina Leader-Post, April 10, 1982.

[69]Department of Agriculture, Annual Report 1982-83, p. 43.

[70]Wilson, Beyond the Harvest, p. 95.

[71]Saskatchewan, Saskatchewan Farm Ownership Board, Changes in Non-Resident Land Holdings 1976-79, by Catherine Neumeyer, n.d., p. 1.

[72]Ibid.

Appendix 4.6.1

LAND OWNERSHIP IN SASKATCHEWAN

Type	Area (sq. km.)	Per Cent of total
1. Privately-owned, mainly agriculture.....	247,352	37.9
2. Federal Crown land other than national parks and Indian reserves.....	5,452	0.8
3. National Park.....	3,875	0.6
4. Indian reserves.....	5,687	0.9
5. Provincial Crown land other than provincial parks and provincial forests.....	35,716	5.5
6. Provincial parks.....	4,810	0.7
7. Provincial forests.....	349,009	53.6
Total.....	651,900	100.0

SOURCE: Saskatchewan, Department of the Environment, Policy Planning and Research Branch, Land Use in Saskatchewan, by P. C. Rump and Kent Harper, January 1977.

Appendix 4.6.2

BRIEFS SUBMITTED TO THE SPECIAL COMMITTEE

ON THE OWNERSHIP OF AGRICULTURAL LANDS

D. G. Stewart, Saskatchewan Liberal Party, REGINA, Saskatchewan	E. Keller
	J. Burton
Saskatoon Board of Trade SASKATOON, Saskatchewan	T. Howland
National Farmer's Union District No. 5, CUDWORTH, Saskatchewan	P. S. Stannard
	H. Robinson
Weyburn Chamber of Commerce WEYBURN, Saskatchewan	P. L. Bonneau
	G. Palmer
Husky Oil Operations Limited CALGARY, Alberta	E. Ross
Saskatchewan Federation of Agriculture, REGINA, Saskatchewan	I. Spilchuk
	R. Juecke
Traders Group Limited TORONTO, Ontario	O. Buyniak
National Farmer's Union, Local 630 ROCANVILLE, Saskatchewan	J. A. McLean, Q.C.
	R. Hadwiger
National Farmers Union District No. 6, KERROBERT, Saskatchewan	T. F. Brooks
	L. D. Scott
Saskatchewan Chamber of Commerce REGINA, Saskatchewan	M. T. Lee
National Farmers Union District No. 4, KAMSACK, Saskatchewan	K. W. Hougham
	H. J. Elder
Canadian Petroleum Association REGINA, Saskatchewan	M. Metz
	R. Uhrich
Gulf Oil Canada Limited REGINA Branch, Saskatchewan	J. Poisson
	A. Crawford

Appendix 4.6.2 (cont'd)

Spy Hill Wheat Pool Committee SPY HILL, Saskatchewan	G. Leitch
E. Nasserden Progressive Conservative Party SASKATOON, Saskatchewan	National Farmer's Union, J. Burton, M.P., REGINA, Saskatchewan
Dr. Schmieser, Law College University of Saskatchewan Saskatchewan Association of Human Rights, SASKATOON, Saskatchewan	Chamber of Commerce, WYNYARD, Saskatchewan
Saskatoon Group Saskatchewan Waffle Movement, SASKATOON, Saskatchewan	Mrs. W. Ross Thatcher P. S. Bludoff
Veterans' Land Administration SASKATOON, Saskatchewan	L. Steeves S. Wilson J. H. Wilson
Yorkton Chamber of Commerce Agricultural Committee YORKTON, Saskatchewan	Canadian Life Insurance Association TORONTO, Ontario
Canadian Liberation Movement SASKATOON, Saskatchewan	J. M. Goldenberg Barrister and Solicitor SASKATOON, Saskatchewan
Prince Albert Chamber of Commerce	The Churchbridge Agricultural Society CHURCHBRIDGE, Saskatchewan
Veterans Land Association SASKATOON, Saskatchewan	
W. Gil Johnson and J. I. Ulmer Law firm of Coxworth & Johnson DAVIDSON, Saskatchewan	

SOURCE: Saskatchewan, Special Committee of the Legislative Assembly of Saskatchewan, Final Report of the Special Committee on the Ownership of Agricultural Lands (Regina: Queen's Printer, 1973), p. 41.

Appendix 4.6.3

LAND OWNERSHIP BY PERSONS WITH ADDRESSES OUTSIDE

SASKATCHEWAN BUT INSIDE CANADA

Order or Rank	Number of Owned Quarter Sections	Percent of Class Total
1) Alberta	3,574.82	40.28
2) British Columbia	3,023.81	34.07
3) Manitoba	1,083.23	12.20
4) Ontario	983.17	11.08
5) Quebec	96.87	1.09
6) Nova Scotia	24.00	.27
7) Yukon	24.00	.27
8) Northwest Territories	21.50	.24
9) New Brunswick	7.00	.08
10) Prince Edward Island	2.00	.02
11) Newfoundland	1.00	.01
12) Unknown	34.00	.38
TOTAL	8,875.40	100.00

SOURCE: Saskatchewan, Special Committee of the Legislative Assembly of Saskatchewan, Final Report of the Special Committee on the Ownership of Agricultural Lands (Regina: Queen's Printer, 1973), p. 32.

Appendix 4.6.4

RECOMMENDATIONS OF THE SPECIAL COMMITTEE ON THE OWNERSHIP OF AGRICULTURAL LANDS

Recommendation One:
That the Legislature enact special legislation, "The Family Farm and Community Group Agricultural Incorporation Act."

Recommendation Two:
That the acquisition by any means for agricultural land for agricultural purposes by any corporation except a farm family or community group or agricultural co-operative be prohibited.

Recommendation Three:
That any corporation, except a farm family or community group or co-operative association, now owning agricultural land be required to dispose of the land by a specified date twenty years from now.

Recommendation Four:
That no incorporation should be registered for the carrying out of any agricultural purpose except as a farm family or community group or agricultural co-operative association.

Recommendation Five:
That no corporation, except a farm family or community group or agricultural co-operative association, should be permitted to operate any agricultural enterprise after five years from the date specified in the legislation.

Recommendation Six:
That no one except a Canadian citizen or landed immigrant may acquire by purchase, gift, inheritance or other means except from the spouse, any agricultural land in Saskatchewan.

Recommendation Seven:
That alien individuals now owning land should be permitted to continue as owners and to transfer land to a spouse.

Recommendation Eight:
That the ownership and control of lands suitable for recreation be studied.

Appendix 4.6.4 (cont'd)

Recommendation Nine:

That the effect of large farm land holdings of all kinds on Saskatchewan communities and Saskatchewan agriculture be studied.

Recommendation Ten:

That a central registry be maintained showing the ownership and operator of agricultural land and of recreational land.

Recommendation Eleven:

That the Department of Co-operation and Co-operative Development be strengthened to provide personnel and information and to conduct research in order to better serve farmers who choose to achieve economic and social objectives through group and co-operative efforts.

Recommendation Twelve:

That the Government of Saskatchewan invite representatives of the Governments of British Columbia, Alberta, and Manitoba to a meeting to consider aspects of land ownership and use.

SOURCE: Saskatchewan, Special Committee of the Legislative Assembly of Saskatchewan, Final Report of the Special Committee on the Ownership of Agricultural Lands (Regina: Queen's Printer, 1973), pp. 34-39.

Appendix 4.6.5

PASSAGE THROUGH THE LEGISLATIVE ASSEMBLY OF BILL 79 - AN ACT TO REGULATE THE OWNERSHIP AND CONTROL OF AGRICULTURAL LAND IN SASKATCHEWAN

Wednesday, April 3, 1974	Bill 79 - An Act to regulate the Ownership and Control of Agricultural Land in Saskatchewan was introduced by Minister of Agriculture, J. Messer who moved that the Bill be read a second time. Debate occurred between the NDP and Liberal parties in the Legislature for approximately one hour. Debate was adjourned by a motion by Liberal E. Gardner.
Thursday, April 4, 1974	On a motion proposed by Messer that Bill 79 be read a second time the Assembly resumed the adjourned debate. Debate occurred between the two parties for approximately one hour. Debate was adjourned by a motion by Liberal K. MacLeod.
Monday, April 8, 1974	The Assembly resumed the adjourned debate on a motion proposed by Messer. For approximately a ten minute period, Liberal E. Malone is the only member to speak on this bill. Debate was adjourned on a motion by Malone.
Thursday, April 11, 1974	The Assembly resumed the adjourned debate on a motion proposed by Messer. Debate occurred between the two parties for approximately thirty minutes. Debate was adjourned on a motion by NDP J. Pepper.

Appendix 4.6.5 (cont'd)

Monday, April 15, 1974	The Assembly resumed the adjourned debate on a motion proposed by Messer. For approximately a ten minute period, NDP members H. Owens and Pepper are the only persons to speak on the bill. Debate was adjourned on a motion by Pepper.
Monday, April 22, 1974	The Assembly resumed the adjourned debate on a motion proposed by Messer. Debate occurred between the two parties for approximately forty-five minutes. Debate was adjourned on a motion by NDP member T. Hanson.
Wednesday, April 24, 1974	The Assembly resumed the adjourned debate on a motion proposed by Messer. Debate occurred between the two parties for approximately one hour with the two parties voting on the bill at the end of the debate. Bill 79 was read a second time and referred to a Committee of the Whole.
Friday, May 10, 1974	The Assembly resolved itself into a Committee of the Whole to study the bill. The bill was later reported with amendment, considered as amended and read the third time and passed. Later that day, Bill 79 -An Act to regulation the Ownership and Control of Agricultural Land in Saskatchewan was given Royal Assent.

SOURCE: Saskatchewan, Debates and Proceedings, April, 1974, pp. 2027-2037, 2050-2059, 2130-2131, 2295-2302, 2341-2343, 2579-2587 and 2644-2655; Saskatchewan, Journals of the Legislative Assembly of the Province of Saskatchewan, April, 1974, pp. 209, 220, 228, 240, 244, 266, and 271; and Journals of the Legislative Assembly of the Province of Saskatchewan, May, 1974, pp. 315 and 326.

Appendix 4.6.6

WORKSHOP I: PARTICIPATING SASKATCHEWAN ORGANIZATIONS AND DELEGATES

A. Moore, B. Walker - National Farmer's Union

C. Hookenson, R. Gray - Saskatchewan Federation of Agriculture

M. LaFoy, N. Taylor - Environmental Advisory Council

G. Ledingham, K. N. Dickson - Saskatchewan Natural History Society

P. Prebble, Dr. B. Holl - Saskatoon Environmental Society

D. Hudon, B. Ferguson - Conservation and Development Association

L. R. Yew, G. Josephson - Northern Municipal Council

C. S. Mitchel, D. Benson, H. Floding - Saskatchewan Association of Rural Municipalities

H. Taylor, L. Grainger - Saskatchewan Urban Municipalities Association

T. Motta, E. Begin - Saskatchewan Wildlife Association

J. Carriere, Sr., - Commercial Fisheries Development Committee

G. Kessler, M. Hidelbaugh - Saskatchewan Parks and Recreation Association

R. Duncan, P. Hill - Saskatchewan Federation of Labour

J. Gorman, J. Perkins - Saskatchewan Forestry Association

H. Tingley, E. Southern - Saskatchewan Mining Association

H. Knowlden, N. Millar - Council of Women

R. Leibel, T. White - Community Planning Association

R. McGillivary - Saskatchewan Chamber of Commerce

C. Burton - Saskatchewan Tourist Association

SOURCE: Saskatchewan, Department of the Environment, Land Use Workshop Summary Report, April 1976, pp. 13-14.

Appendix 4.6.7

WORKSHOP II: PARTICIPATING SASKATCHEWAN ORGANIZATIONS AND DELEGATES

R. Atkinson, D. Robertson, A. Moore - National Farmer's Union

R. Gray, G. McGlaughlin, C. Hookenson - Saskatchewan Federation of Agriculture

N. Taylor - Environmental Advisory Council

Dr. G. Ledingham, K. Dickson - Saskatchewan Natural History Society

B. Ferguson, D. Hudson - Conservation and Development Association

R. Merasty - Northern Municipal Council

D. Benson, H. Floding, B. Anderson - Saskatchewan Association of Rural Municipalities

J. A. Clark - Saskatchewan Urban Municipalities Association

R. Duncan, P. Hill - Saskatchewan Federation of Labour

V. Terry - Northern Saskatchewan Trappers Association

G. Kessler, M. Hidlebaugh - Saskatchewan Parks and Recreation Association

S. Smith - Saskatchewan Forestry Association

B. McGillvray - Saskatchewan Chamber of Commerce

H. Tingley - Saskatchewan Mining Association

H. Knowlden, N. Millar - Saskatchewan Council of Women

T. White, R. Leibel - Community Planning Association

SOURCE: Saskatchewan, Department of the Environment, Land Use Workshop II Summary Report, September 1977, pp. 17-18.

Appendix 4.6.8

PASSAGE THROUGH THE LEGISLATIVE ASSEMBLY OF BILL 6 - AN ACT TO AMEND THE SASKATCHEWAN FARM OWNERSHIP ACT, 1974

Monday, March 6, 1978	Bill 6 - An Act to amend The Saskatchewan Farm Ownership Act, 1974 was introduced by Minister of Agriculture E. Kaeding. He moved that the bill be read the first time and be read a second time at the next sitting. The motion was carried.
Wednesday, April 5, 1978	The Assembly resumed the adjourned debate on the proposed motion by Kaeding that Bill 6 be read a second time. Debate occurred between the NDP, Liberal and Progressive Conservative parties in the Legislature for approximately thirty minutes. The debate was then adjourned.
Monday, April 10, 1978	The Assembly resumed the adjourned debate on the proposed motion by Kaeding. For approximately a fifteen minute period, NDP member J. Kowalchuk was the only member to speak on this Bill. The Bill was then read a second time and referred to a Committee of the Whole.
Thursday, April 27, 1978	Debate on the Bill at the Committee of the Whole was for approximately five minutes. The bill was then reported with amendments, considered amended and read the third time and passed.
Friday, May 26, 1978	Bill 6 - An Act to amend The Saskatchewan Farm Ownership Act, 1974 was given Royal Assent.

Appendix 4.6.8 (cont'd)

SOURCE: Saskatchewan, Debates and Proeedings, April, 1974, pp. 1087-1092, 1235-1238, 2102-2103; and Saskatchewan, Journals of the Legislative Assembly of the Province of Saskatchewan, April, 1974, pp. 10, 86, 135 and 136; and Journals of the Legislative Assembly of the Province of Saskatchewan, May 26, 1978, p. 209.

Appendix 4.6.9

PASSAGE THROUGH THE LEGISLATIVE ASSEMBLY OF BILL 109 - AN ACT TO AMEND THE SASKATCHEWAN FARM OWNERSHIP ACT

Wednesday, May 7, 1980	Bill 109 - An Act to amend The Saskatchewan Farm Ownership Act was introduced by Minister of Agriculture C. MacMurchy. He moved that the bill be read the first time and be read a second time at the next sitting. The motion was carried.
Monday, May 12, 1980	The Assembly resumed the adjourned debate on the proposed motion by MacMurchy that Bill 109 be read a second time. MacMurchy was the only member of the Legislature to speak on the bill during the approximately fifteen minute period.
Wednesday, May 21, 1980	The Assembly resumed the adjourned debate on the proposed motion by MacMurchy. Debate occurred between the NDP, Progressive Conservative and the Unionest party in the Legislature for approximately fifteen minutes. The Bill was voted upon and then read a second time and referred to a Committee of the Whole.
Tuesday, June 17, 1980	Debate on the Bill at the Committee of the Whole was brief, lasting only approximately two minutes. The Bill was reported without amendment and read a third time and passed. Later that day, Bill 109 - An Act to amend The Saskatchewan Farm Ownership Act was given Royal Assent.

Appendix 4.6.9 (cont'd)

SOURCE: Saskatchewan, Debates and Proceedings, April, 1974, pp. 1087-1092, 1235-1238, 2102-2103; and Saskatchewan, Journals of the Legislative Assembly of the Province of Saskatchewan, April, 1974, pp. 10, 86, 135 and 136; and Journals of the Legislative Assembly of the Province of Saskatchewan, May 26, 1978, p. 209.

Appendix 4.6.10

NON-RESIDENT LAND HOLDINGS, 1976-79

Type of Non-Resident	March 1976	February 1978	March 1979
Non-residents residing in Canada.....	1,191,144	1,320,349	1,389,580
Non-residents residing outside Canada.....	444,310	496,122	510,846
Non-resident farmers residing within 20 miles of Saskatchewan.....	106,007	128,180	143,300
All non-residents.....	1,741,461	1,944,651	2,043,726

SOURCE: Saskatchewan, Saskatchewan Farm Ownership Board, Changes in Non-resident Land Holdings 1976-79, by Catherine Neumeyer, n.d.

CHAPTER 5

POLICY-MAKING IN ALBERTA

This chapter investigates Alberta's response to the issue of alien and non-resident land ownership. It shows that restrictions adopted on alien and non-resident land ownership have arisen because the provincial government wished to remove the threat of large scale speculation and ensure a comparatively low amount of alien land ownership in the province. In implementing this legislation, however, the governing Progressive Conservative party did not restrict foreign capital from entering the province for industrial, commercial and residential purposes since this party supports foreign investment as a major source for the province's economic development.

5.1 An Act respecting Public Lands and Related Regulations

Prior to the 1970s, support for foreign investment also existed under the Social Credit provincial government (1935-1971). This support was most evident in the oil and gas sector during the 1940s and 1950s when the Social Credit government allowed large amounts of foreign capital into the province in order to develop this sector.[1] In terms of land, it was not until 1966, under Premier Manning, that limited restrictions were imposed on alien and non-resident land ownership. This legislation, An Act respecting Public Lands, which is still in operation, focused on public lands for agricultural purposes. It was introduced by Minister of Lands and

Forest, Henry Ruste on March 28, 1966 and passed on April 15, 1966.[2] Section 83 provides restrictions on public land being made available for homesteading. In addition to other eligibility requirements, section 83 requires that homestead applicants must be Canadian citizens or British subjects or declare in the application their intention to become a Canadian citizen. Applicants must also have lived in Alberta for an aggregate total of at least one year in the three years preceding an application for a homestead sale. Prior to this act, there were no restrictions on aliens applying for homestead sales. Instead, the federal and provincial governments set forth a number of conditions on homestead sales. These conditions included paying a small fee (e.g. $10) and residence requirements that ranged generally from two to five years.[3]

Three sets of regulations further restricting alien and non-resident land ownership were passed pursuant to An Act respecting Public Lands between 1966 and 1967. The first regulation, entitled the Cultivation Lease and Permit Regulations, was filed on September 21, 1966.[4] Section 7 of this regulation provides that persons may apply for a cultivation lease in the province if they are a Canadian citizen or a British subject, a veteran, or had lived in Alberta for an aggregate total of at least one year in the three years preceding the application and are in the opinion of the Minister operating a farm in Alberta. The second regulation, entitled The Public Lands Grazing Lease Regulations, was filed on December 14, 1966.[5] Section 3(1) of this regulation provides that a Canadian citizen or a

corporation may apply for a grazing lease or renew a grazing lease. However, section 4(2) stipulates that a corporation must have the majority of its shares owned by residents of the province who are Canadian citizens. The third regulation, entitled the Agricultural Farm Sale Regulations, was filed on June 14, 1967.[6] Section 4(1) of this regulation states that a person may purchase public lands who in the Minister's opinion is chiefly engaged in farming as an occupation and is a Canadian citizen or a British subject.

Underlying these new measures and future measures to be introduced during the early 1970s was a fundamental change in Alberta's social and economic environment which would place increasing pressure on the province's public land. Between 1946 and 1971 Alberta doubled its population, from roughly 800,000 to 1.6 million, and an overwhelming proportion of the growth was concentrated in the two major urban centres of Calgary and Edmonton, and to a lesser extent in Lethbridge, Medicine Hat and Red Deer.[7] Substantial growth in the oil and gas sector also provided an increase of wealth in the province which in turn increased the competition for land and the demand to utilize recreational land. Increased accessibility would also place new pressures on public land. As one 1973 study notes:

> . . . because so much of Alberta's urban population has concentrated along the Lethbridge-Calgary-Red Deer-Edmonton axis and has easy access to public lands to the west, the public reserves of the Rocky Mountains have become a focus of general interest. . . .
>
> Their previous inaccessibility contributed largely to their unavailability for settlement and development and because these areas do have some agricultural potential pressures for their alienation may be anticipated for agricultural, recreational and other uses.[8]

Further related regulations reflecting this pressure on public land were passed after the Progressive Conservative party won the August 30, 1971 provincial election.[9] The Conservative's election platform had proposed to restrict farm loans to Alberta residents and to enact legislation so that Crown lands were only sold to Canadians.[10] This inclusion of the foreign investment issue in their election platform perhaps indicated this upcoming party's desire to address a new growing concern in the province as well as in Canada that foreign investment be restricted. During the election, however, the matter does not seem to have been an election issue.[11] The New Democratic Party also made no mention of restricting alien land ownership in its platform.[12] It also didn't seem to be a concern of the Social Credit government.[13] The Conservatives partially fulfilled their election pledge in the fall of 1971 by passing two regulations pursuant to An Act respecting Public Lands. Both regulations were based upon the recommendation of the new Minister of Lands and Forests, Dr. Allan Warrack. The first regulation, entitled The Forest Management Area Grazing License Regulations, was filed on October 27, 1971.[14] Section 6 of this regulation provides that to obtain a forest grazing license the person must be a Canadian citizen who has attained the age of eighteen years or is a corporation or a registered association which has a majority of shares held by residents of the province who are Canadian citizens. The second regulation, entitled the Farm Development, Consolidation and Enlargment Regulations was filed on November 3, 1971.[15] This regulation provides rules for

acquiring public land for farm development, consolidation and enlargement. In particular, section 7(1) of this regulation provides that on attaining 18 years of age:

> (b) any person that files a declaration of his intention to become a Canadian citizen may apply for a lease, with or without an option to purchase public land, but the option to purchase may not be exercised until the lessee becomes a Canadian citizen;
> (c) a Canadian citizen or a British subject may apply to exchange, lease or purchase public land.[16]

More wide-ranging legislation restricting public lands was introduced June 1, 1972. Entitled Bill 107, The Public Lands Amendment Act, this bill prohibited the sale of public land to persons who were not Canadian citizens or corporations that were not at least 75 per cent controlled by Canadian citizens.[17] In the lead up to the 1971 election, a similar bill had been introduced in March 1971, when the Conservatives were in opposition, by Conservative M.L.A. Clarence Copithorne. That private member's bill was entitled Bill 135, The Sale of Crown Lands Act.[18] Like Bill 135, Bill 107, The Public Lands Amendment Act did not get passed. Instead, Bill 107 was referred to a special legislative committee for further study.

5.2 The Select Committee on Foreign Investment

Entitled "The Select Committee on Foreign Investment", this committee was established six weeks earlier on April 21, 1972 with the following tasks:

> (a) to recommend ways and means which will ensure a greater participation by Albertan's in the ownership and control of Alberta's industry; and
>
> (b) to investigate and assess ways and means of providing as many opportunities and incentives as possible for Albertans and Canadians to invest in

the equity ownership of companies operating within the Province of Alberta; and

(c) to assess the economic consequences of any proposed new Federal restrictions upon investment within Alberta whether by way of legislation of otherwise; and

(d) to evaluate the extent of sufficient sources of investment funds in Canada and Alberta for the future economic development of our province and the need to create jobs for the young Albertans coming into the labour force in the decade ahead; and

(e) to examine the need for restrictions upon non-Albertan and/or non-Canadian control of certain key sectors of our economy.[19]

In a larger context, Alberta's study was part of a growing number of other studies that were being conducted in Canada in response to concern over foreign investment. For example, both the Ontario and Saskatchewan provincial governments had established by 1972 select committees to study the foreign investment question. The federal government in 1972 would also release the Gray Report, Foreign Direct Investment in Canada, the most detailed report ever on foreign investment in Canada.[20]

In terms of Alberta's committee, the composition included Julian Koziak, a Progressive Conservative backbencher as chairman, four other Progressive Conservative M.L.A.s including Minister of Federal and Intergovernmental Affairs, Donald Getty, two Social Credit M.L.A.s and NDP Leader, Grant Notley.[21] To study Bill 107, the committee first advertised for briefs in daily newspapers on June 13, 1972 and in weekly newspapers in Alberta during the month of July, 1972.[22] The committee also decided concurrently to consider foreign ownership of privately held lands in the province in order to fully

understand the nature of this type of investment in the province. Of the 25 submissions received from organizations and individuals, six were considered as briefs and 19 as letters (see Appendix 5.10.1). Those submitting briefs and letters were also invited, as were the public, to attend a public hearing at the Legislative Building in Edmonton on September 18, 1972. Notable interest groups that participated in this process included the Alberta Fish and Wildlife Association, the Committee for an Independent Canada and Unifarm (Alberta's largest farm interest group).

When the committee submitted its interim report in October, 1972, it had concluded that Alberta did not have a serious alien and non-resident land ownership problem.[23] In support of this argument, the committee noted that 54.9 per cent of Alberta's total land area was still provincial Crown land with the remainder being 34.5 per cent privately owned and 10 per cent being federal lands (see Appendix 5.10.2). Research by the committee also indicated that only 3,681 acres of public land or 0.0023 per cent of the total provincial area had been alienated to non-Canadians.[24] This latter figure recorded by the committee is, however, not entirely accurate due to four problem areas. As the committee explained:

> First, [the figure of 3,681 acres was derived from] only 840 of the possible 1,081 active files. Second, the foreign ownership of former public lands was established by the address on the file and therefore purely on inference. Third, there have been subsequent changes in citizenship. Fourth, former public lands that have been sold to non-Canadians and paid for, either in lump sum or over the years, are not included in the active files.[25]

Underlying these four problem areas was the fact that only six months of study (i.e. from April to October 1972) had preceded the release of the interim report. To ensure better information in the future, the committee recommended the establishment of a "monitoring system" to review private and former public lands for information on the extent of foreign ownership of lands.[26]

Most important to the fate of Bill 107 was the conclusion by the committee that the bill not be proceeded because of certain legal problems. In particular, Bill 107, prevented any subsequent sale of Crown land by a purchaser to a non-Canadian. According to the committee this was significant since future sales of former public land would be subject to a "cloud on the title" which would restrict "the right of subsequent purchasers to dispose as they please."[27] Such a legal opinion may have been a key determining factor in the provincial government not proceeding with the bill that year. It should be noted, however, that the committee did generally approve of the principles contained in the bill stating "that the principle 'Canadian lands should be owned and controlled by Canadians' is a good one and wherever reasonably possible should be implemented."[28]

5.3 The Public Lands Amendment Act (1973)

It was not until 1974 that actual legislation similar to Bill 107 was passed. This was Bill 55, The Public Lands Amendment Act, introduced by Minister of Lands and Forests, Dr. Warrack, on May 4, 1973 (see Appendix 5.10.3). In his introduction, the Minister stated that "the principle of the bill is to prohibit the sale of Crown

land to anyone other than Canadians."[29] While no further explanation on the bill was given in the Legislature, it would appear that the Conservatives were also fulfilling the election pledge they made in 1971. To achieve this goal, Bill 55 introduced in section 21.1 the same basic criteria earlier contained in Bill 107. As section 21.1 states:

> The Minister shall not sell public land pursuant to section 18 [which establishes a number of conditions whereby the Minister may sell public lands], the regulations or an order of the Lieutenant Governor in Council, or issue a notification in favour of the purchaser for that land, if the purchaser or one of the purchasers is
>
> (a) a person who is not a Canadian citizen, or
> (b) a corporation that is not a Canadian corporation, or
> (c) a person or corporation acting as a trustee for a person who is not a Canadian citizen or for a corporation that is not a Canadian corporation.[30]

Basically, a "Canadian corporation" is defined in section 21.1 as having 75 per cent or more of the shareholders as Canadians. One major distinction between Bill 55 and Bill 107 was the fact that Bill 55 did not prevent any subsequent sale by a purchaser of Crown land to a non-Canadian.

In the Legislature, there was no comment on the bill by the Social Credit and NDP parties.[31] There was, it is true, front page coverage describing the act in major Alberta newspapers. However, no position or analysis of the act was taken or made by the newspapers. These newspapers included The Albertan, the Calgary Herald, the Lethbridge Herald, the Medicine Hat News and the Red Deer Advocate.[32] This lack of debate on the amended act likely indicated agreement or

passive support for the change. This is not surprising since few interested groups or individuals would be directly affected by the amendments. As lawyer E. Gamache explains:

> . . . most of the public lands are in the northern areas of the province, with very little possibility for development. It should also be mentioned that the act does not forbid the leasing of the surface of public lands. The act states that ministers shall not sell. . . public land. For some time now, the method of disposing of mines and minerals in Alberta has been by lease.[33]

It should be noted that the provincial government follows the practice of only leasing the majority of public lands in order to meet long-term competing uses for this land (i.e. for recreation, agriculture or resource or commercial developments). This matter of conflicting land uses prompted the provincial government to establish the Alberta Land Use Forum on October 1, 1973.[34] This forum was assigned to investigate, report and provide recommendations on a number of issues that included foreign ownership of land. Other issues specified were:

(1) the family farm
(2) multi-use of agricultural land;
(3) the use of agricultural land for recreational purposes;
(4) land use in an adjacent to urban areas as it affects the cost of housing;
(5) future land needs of Alberta agriculture;
(6) corporate farm, . . . absentee ownership and communal farming;
(7) the common ownership of land, agriculture processing and marketing facilities;
(8) land use as it influences population distribution in Alberta; and
(9) the extent, if any, to which the historical right of a landowner to determine the use and disposition of agricultural property ought to be restricted.[35]

The forum was composed of three members: Dr. V. A. Wood, former deputy minister of Lands and Forests and Chairman, J. E. Davis, Calgary businessman and former alderman, and R. W. Brown, farmer and reeve of the municipal district of Kneehill.[36] The findings of this committee will be discussed later in this chapter since the final report was not released until January 1976.

5.4 The Land Titles Amendment Act

On October 23, 1974, further legislation was introduced by the government in the form of Bill 63, The Land Titles Amendment Act, by Attorney General and Provincial Secretary, Merv Leitch (see Appendix 5.10.4). Leitch stated that the bill was in response to widespread public concern about the citizenship of persons acquiring land in Canada.[37] According to Leitch, Bill 63 would respond to that concern since it would enable the government to obtain information on the citizenship of land buyers in order to determine whether or not restrictive legislation was necessary. Bill 63 would also assist the Land Use Forum since the committee had earlier made a request to the government that an amendment to The Land Titles Act be passed in order to have better information on which to make sound recommendations on foreign land ownership.[38]

The Land Titles Amendment Act which was passed in early November, 1974, and proclaimed on June 1, 1975, provides that "the Registrar [of Land Titles] shall refuse to register any transfer of land or to file any caveat relating to an agreement for the purchase

and sale of land unless such a transfer or caveat is accompanied by a statement as to the citizenship of the transferee or purchaser."[39] When the transferee or purchaser is a corporation, the act requires that a statement be filed on "whether or not the holders of the majority of the voting shares of the corporation are Canadian citizens."[40]

Reaction to the act by the Social Credit and NDP opposition parties was generally supportive. Leader of the Official Opposition and Social Credit M.L.A. Bob Clark stated that the bill was likely the most important piece of legislation that the legislature would deal with in the fall session.[41] NDP Leader Grant Notley stated that he would be supporting the bill since the Alberta Land Use Forum needed better information.[36] One area of Bill 63 that was criticized by both Clark and Notley was section 30.1(5). This section provided that the Attorney General could exempt any corporation from providing information under the bill as he considered appropriate. Clark and Notley argued that this would subject the Attorney General to considerable pressure from various interest groups to obtain exemption from the act.[43]

5.5 The Debate on Land Speculation

During the 1974-75 period, Canada experienced rapidly increasing inflation in its economy. Closely intertwined with the problem of inflation was the issue of speculation and foreign land investment. As noted in Chapter 3, the Ontario provincial government

in 1974 had already addressed the issue of inflation in their province's land market with restrictive legislation on foreign investment. In Alberta, inflation was 10.2 and 11.2 per cent respectively in 1974 and 1975.[44] In response to this situation, the Social Credit and NDP opposition parties made a concerted call on the government to introduce restrictions on foreign ownership of land since this type of investment was seen as causing inflation in Alberta's land market. The NDP, as well, opposed foreign investment on ideological grounds. The Social Credit party's call for legislation came from M.L.A.s R. Speaker on May 9, 1974, G. Taylor on October 28, 1974, and W. Buck on February 7, 1974.[45] A private member's bill was also introduced by Buck on May 29, 1974.[46] NDP Leader Grant Notley on April 17, 1974 also requested restrictive legislation. During the March 26, 1975 Alberta provincial election, the NDP also proposed in their election platform to "provincialize" land which was owned by foreign individuals and foreign controlled corporations.[47]

The Progressive Conservative party's own response to this problem during the election was that they would "carefully monitor the effectiveness of existing legislation in other jurisdictions dealing with the matter of land speculation and if it appeared feasible and desirable,"[48] the government would introduce legislation to "inhibit and tax land speculation without adversely affecting the ability of bona fide land developers to bring land on stream at an early stage for housing programs."[49] While the Conservative and NDP parties

established positions on this issue, it did not enter the general debate during the election itself.[50] The Conservatives won an overwhelming 69 of 75 seats in the 1975 election while the Social Credit and NDP parties won four seats and one seat respectively.

With their re-election, the Conservative government continued to monitor land speculation but abstained from introducing restrictive legislation in 1975. On December 15, 1975, Premier Lougheed stated that the government was delaying legislation since preliminary reports indicated that "foreign purchases of rural land for the four months of June to September 1975, were only 2.2 per cent of land sales, and were well scattered throughout the province."[51] Premier Lougheed also stated that legislation was delayed because the provincial government had adopted the prevailing constitutional position that in order for a provincial government to pass legislation on alien land ownership it had to exclude residents from other Canadian provinces as well. Lougheed stated that this type of restriction would be an "undesirable limitation upon Canadian citizenship."[52] To overcome this obstacle, Premier Lougheed corresponded with Prime Minister Trudeau on several occasions in 1975 concerning amending the Canadian Citizenship Act.[53] At the outset, the federal government replaced the entire Canadian Citizenship Act with a new one entitled The Citizenship Act in 1976. However, the new act as well as section 33 of the act giving provinces the authority to restrict aliens separate from residents in other provinces was not proclaimed until February 17, 1977.[54]

5.6 The Alberta Land Use Forum

In 1976, the first notable event on the issue of alien land ownership was the release in January of the final report of the Alberta Land Use Forum. In order to study various land issues, the Land Use Forum contracted the Rural Education and Development Association (a private organization) to organize a public participation program. This resulted in public information meetings to be held in over 80 rural and urban communities throughout the province during the latter part of 1974. The Forum also "conducted public hearings in 15 centres throughout the province in January, February and March of 1975."[55] These efforts resulted in some 500 briefs being submitted to the Forum. All briefs submitted on the issue of alien land ownership recommended government controls (see Appendix 5.10.5). According to Charles Pei of the Alberta Department of Agriculture, part of the concern on alien land ownership "stemmed from a purely emotional and nationalistic feeling and partly from a fear of price competition. It also included a concern for the decline in the rural population and the loss of the rural life ethic."[56]

As to the conclusions reached by the Forum, a major one was that foreign ownership was "not likely to increase substantially in the future."[57] This conclusion was based on its research which indicated that foreigners had acquired less than two per cent of Alberta's farm land. The Forum also provided the following arguments against controls:

a) A determined foreign buyer can easily evade the law by a variety of financial arrangements that, if made illegal, would hamstring Canadian farmers.

b) There may be instances where it is in our interests to have potential urban land owned by a foreigner during holding and development stages.

c) There could be instances where it is desirable, for example, to produce hybrid wheat seed. At that time no Canadian might have the capital or expertise to undertake such a project.

d) The danger of retaliation. Some Canadians do buy farms in Australia, the United States, and in other countries.[58]

As an alternative to controls, the Forum recommended that all purchases of farm land by non-Canadians be reviewed by the provinces in place of the existing mechanism established under the Foreign Investment Review Act.

Reaction to these and other conclusions made by the Forum was mixed. Indicating general support was an editorial in the Edmonton Journal which stated that the report "merits detailed review but in general, appears to challenge a number of widely-held myths about land use and urban development. The challenges are refreshing."[59] In contrast, NDP Leader Grant Notley stated that he feared that the provincial government would use the report "as a rationalization and justification for doing nothing."[60] Notley also considered the report backward looking and seriously "out of step" with modern attitudes in land use. In terms of reaction by Alberta's principal interest groups (e.g. Unifarm, the National Farmer's Union), one finds an absence of comment. This may reflect their own perception that the Forum would possibly have little impact on government policy. On the other hand,

there was some comment made by less significant interest groups. This included the Federation of Alberta Naturalists which indicated that controls were still necessary even though only two per cent of Alberta's farm land was under foreign ownership.[61] The Federation argued that this low amount was significant since only 17 per cent of Alberta's land was arable. Alberta's Christian Farmers Federation also requested that restrictive legislation be passed despite the low amount of foreign ownership.[62]

5.7 Foreign Ownership of Land (Temporary) Regulations

Legislation was finally introduced on April 21, 1977, when Minister of Federal and Intergovernmental Affairs, Lou Hyndman, unveiled The Agricultural and Recreational Land Ownership Act and associated regulations. In order to facilitate the operation of restrictions as quickly as possible, the government introduced the same day the Foreign Ownership of Land (Temporary) Regulations. These regulations made by Order in Council 404/77 were passed on April 26, 1977, pursuant to subsections 33(2) and 33(3) of the federal government's Citizenship Act.[63] Hyndman stated that the government introduced temporary regulations in order to avoid land speculation prior to permanent controls being implemented.[64] In comparison to other provinces, Alberta's legislation followed the lead of a number of other provinces. For example, Prince Edward Island had implemented related controls by 1972 while Ontario and Saskatchewan had such

legislation by 1974. On the other hand, Manitoba would not pass related legislation until September 1977 while Quebec followed in December 1979.

Prior to the introduction of Alberta's legislation, many significant events related to this legislation had occurred during the first quarter of 1977. First, on February 17, 1977, the federal government proclaimed the new Citizenship Act which allowed provinces to deal directly with the acquisition of property by aliens without having to restrict other Canadians. As noted earlier, Premier Lougheed stated that such amendments would have to occur before the province would pass restrictions on alien land ownership.

Alberta's opposition parties also made an extensive effort during this period to pressure the Tory government to introduce related legislation. On March 9, 1977, for example, Social Credit M.L.A. Walter Buck requested that the government restrict alien land ownership and followed suit on March 18, 1977, in introducing his own private member's bill on the issue entitled Bill 232, the Farm Land Ownership Act.[65] NDP Leader Grant Notley also introduced on March 4, 1977, similar legislation entitled Bill 206, The Alberta Farm Ownership Act (one year earlier, Notley had introduced similar legislation entitled Bill 211, The Temporary Non-Resident Farm Ownership Act).[66] Spokesmen for both the Social Credit and NDP parties felt their actions had placed pressure on the Tory government to introduce restrictive legislation.[67] As Buck said:

> "it was a tough job. . . . It took a lot of work. It took a lot of presenting bills in the Legislature. It took a lot of publicity by the members and the media to finally get the government to move. But they did and I welcome the legislation."[68]

It should be noted, however, that according to NDP spokesman, Jim McInnis, both party's initiatives in the Legislature were independent of each other.[69]

A request for legislation also came from the delegates at the annual Alberta Progressive Conservative convention on March 26, 1977. They passed a resolution recommending to the government to pass restrictive legislation on alien land ownership.[70] This resolution was significant since it was only at the conclusion of the conference that Minister of Federal and Intergovernmental Affairs, Lou Hyndman, announced that the government intended to introduce legislation to restrict foreign ownership of agricultural and recreational land. Hyndman stated the government waited to make this announcement on March 27, 1977, since the government wanted to first hear the views of the delegates on foreign land ownership.[71]

When the government finally introduced restrictive legislation the following month, Hyndman provided further reasons underlying the legislation. This included the provincial government's desire to protect renewable resources such as agricultural and recreational land for future generations of Albertans.[72] The provincial government also wanted to remove the threat of large scale purchases being made by wealthy Arab nations.[73] Results from the Alberta government's monitoring system also indicated that purchases of rural land by

foreigners were on the increase. As Hyndman explained, during "the last six months of 1975, approximately 39,000 acres were purchased by non-Canadians. One year later, in the last six months of 1976, 50,000 acres were purchased by non-Canadians. That's an increase of 29 per cent."[74] In defending these restrictions, however, Hyndman emphasized repeatedly during debate that the restrictions were not intended to create barriers to foreign investment. According to Hyndman, the government wished to encourage foreign investment since it would result in "manufacturing and processing developments; joint ventures in the production of jobs and opportunities for Albertans."[75]

In terms of the main provisions of the Foreign Ownership of Land (Temporary) Regulations, it should be noted first that the regulations restricts aliens and foreign controlled corporations to an aggregate holding of not more than two parcels of land containing not more than 20 acres. The regulation defines a "foreign controlled corporation" as one in which the share ownership is more than 50 per cent foreign. The regulations also grant the provincial cabinet sole discretionary power to grant exemptions from the controls. In comparison, The Public Lands Amendment Act noted earlier requires 75 per cent Canadian ownership. One possible interpretation of this difference could be that the Conservatives had a stronger desire to retain and protect government Crown land with tougher restrictions rather than privately owned agricultural and recreational land. There are other aspects of the temporary regulations to be noted.

Canadian citizens and permanent residents are not controlled in any way. Lands also not controlled according to section 2 of the regulations include:

> (i) land of the Crown in right of Alberta,
> (ii) land within the boundaries of a city, town, new town, village or summer village, and
> (iii) mines and minerals.[76]

The regulations also do not prohibit the purchase of an interest in controlled land for the purpose of constructing pipelines, oil and gas processing plants, and electric distribution systems.

There are also a number of penalties for violation of the regulations. These penalties are not stated in the regulations but instead originate from The Citizenship Act. As noted earlier, this is made possible by the fact that the regulations are passed pursuant to the federal act. The Citizenship Act sets a fine up to $10,000 and imprisonment of up to one year or both for those who breach provincial legislation passed pursuant to the act.[77] Where controlled land is acquired contrary to the regulations, procedures for judicial sale are set forth in the regulations.

To administer the temporary regulations, the provincial government established the office called the Foreign Land Ownership Administration within the Department of Energy and Natural Resources. This office is headed by a Director who in turn must report to the Associate Minister for Public Lands and Wildlife within the Department of Energy and Natural Resources (see Appendix 5.10.6). To facilitate the application of these regulations the Director has one Review Coordinator located at the office in Edmonton as well as one Review

Officer assigned separately to the Calgary and Edmonton Land Titles Offices.

In terms of developing the general principles of temporary regulations (as well as The Agricultural and Recreational Land Ownership Act and related regulations), the Director of the Foreign Land Ownership Administration, David Coombs, stated in a newspaper interview that the "government decided to make the rules as tough as they are because it was felt that if the intention was to restrict the sale of land to foreigners, they might as well as go all the way."[78] Coombs also stated that by making the rules prohibitive, administrative costs would be reduced since there is no need for a review board to review each case because the ground rules are clearly set out.

NDP Leader Notley supported the bill by stating that in his "view the arguments for some kind of control are overwhelming."[79] Notley, however, still criticized the government for exempting urban land from the regulations stating that this would contribute almost directly to the spiralling cost of urban land, heated up by speculation by outside interests. Social Credit Leader Bob Clark outside the Legislature also stated that his party would support the principle of the legislation which his party had been pushing for since 1974.[80] However, Clark criticized the regulations for granting to the provincial cabinet sole discretionary power to grant exemptions from the controls.[81]

An editorial in the Calgary Albertan expressed support for the general principle of the legislation but still criticized the

government for providing cabinet sole discretionary power to grant exemptions from the controls.[82] An editorial in the Edmonton Journal also supported the principle of the legislation stating that it had removed the threat of large scale speculation and ensured a comparatively low amount of alien land ownership in the province.[83]

5.8 The Agricultural and Recreational Land Ownership Act

In 1979, the provincial government would finally implement permanent controls when it proclaimed The Agricultural and Recreational Land Ownership Act and associated regulations on June 1, 1979 (see Appendix 5.10.7). While the administration first established in 1977 did not change, changes did occur to the permanent regulations which were basically more lengthy and detailed than the temporary regulations.

To finalize the permanent controls, the government began a public information program in June, 1977, through the daily newspapers encouraging submissions to the Foreign Land Ownership Administration and informing Albertans of the general intent of the legislation and the temporary and proposed draft regulations. These efforts yielded only a limited public response. The Director of the Foreign Land Ownership Administration, David Coombs stated that among the submissions received were briefs or letters from development companies, a mortgage loan association, insurance companies, individual lawyers and farmers.[84] However, Coombs provided only limited details on the nature and number of these submissions. These

limited details included the fact that there were approximately seven briefs submitted concerning this program of which only two or three were major in terms of content. With regard to farmers, five submitted unfavourable letters out of a total of seven letters submitted. The low overall number of submissions, may have been partially due to the fact that urban land was not controlled under the regulations. Tom Priddle, Executive Director of the Alberta division of the Urban Development Institute and G. C. Walker, President of the Alberta division of the Housing and Urban Development Association of Canada both indicated that this was why they did not make submissions to the government since they felt that they would not be affected by the regulations.[85]

To account for the two year delay in proclamation of the act, David Coombs, Director of the Foreign Land Ownership Administration provided a number of plausible explanations.[86] These included: (1) it provided the public with time to make submissions; (2) it allowed the new administration to gain experience under the temporary regulations; (3) the Legislative Counsel had experienced re-staffing and as a result it was not up to full force in terms of handling a heavy work load and having other pieces of legislation that were considered to be of higher priority; and (4) there was a general agreement that the temporary regulations were doing a good job. Another possible factor explaining the two year delay was the lack of pressure placed upon the government to finalize the regulations. For example, based on a review of the newspaper files at Alberta's provincial Legislature

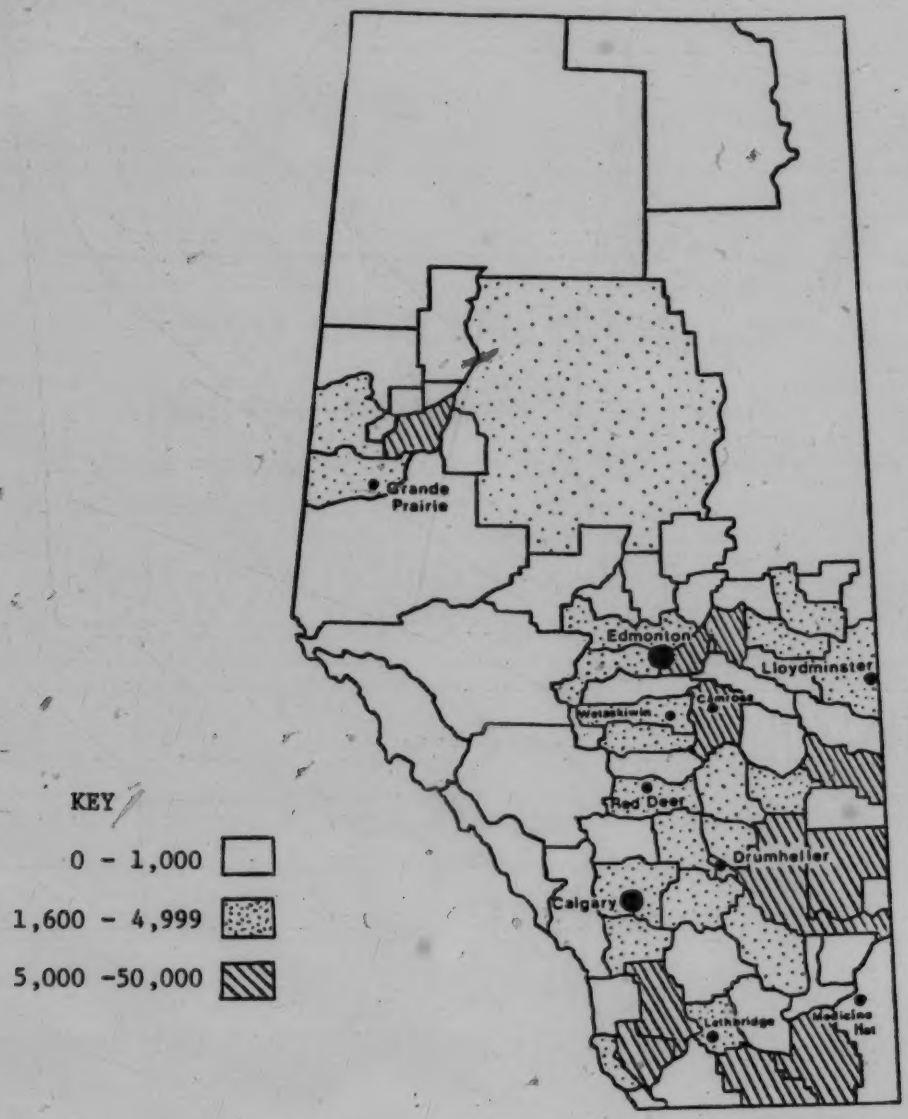
Library as well as the Canadian Newspaper Index, it appears that the newspapers placed little or no pressure upon the government to finalize the regulations.[87] The only exception is an article by writer G. Jaremko in the September 30, 1978, edition of the Calgary Herald which argued that the permanent regulations were overdue.[88] In terms of other newspaper coverage, Alberta's newspapers basically provided statistical information on the impact of the legislation.[89] A review of the debates in the Alberta Legislature also shows that the opposition parties made no request to the provincial government to finalize the permanent controls. When the permanent regulations were finally implemented, there was once again no reaction by the opposition parties in the Legislature. Outside the Legislature, however, Bill Downton, Social Credit party vice-president in charge of policy, criticized the new act stating "they've accomplished nothing except create a lot more bureaucratic red tape."[90] Downton also argued that the act was "tokenism to appease the farmers . . . [and] could be sidestepped by any good corporation lawyer."[91]

There was, however, some criticism of the permanent controls by interest groups and individuals. For example, Jim Lore, a Calgary based private agricultural consultant, stated that the new act has "a little teeth in it but I'm not sure the government can make it stick."[92] Glen Buchwald, Manager of Toole and Cote Real Estate in Red Deer argued that the government should restrict the use of land rather than its ownership. As Buchwald explained, "there is little difference, for example, between a foreign investor or a lawyer from

any Canadian city purchasing a piece of farm land because there is still no guarantee it won't be taken out of production."[93] Developers, including the Urban Development Institute also criticized the new regulations since they required full disclosure of the purchaser's identity on urban land transactions to the land titles office even if he was a Canadian.[94] This failure to keep urban land transactions confidential would encourage speculation as Tom Priddle, Executive Director of the Urban Development Institute noted: "a developer could buy several houses for $50,000 and have a speculator [seeing what the developer was up to] pick up the key piece [of land] and say 'you can have it for $1 million'."[95] As a result of this sort of criticism, Coombs, Director of the Foreign Ownership of Land Administration states that the government "revised the regulations so they don't have to disclose to the Land Titles Offices who bought urban land if it's a Canadian citizen."[96] In terms of future changes to the act, Associate Minister of Public Lands and Wildlife, Bud Miller, in August 1981, stated that the government was considering passing legal alternatives under the The Citizenship Act.[97] He also stated that the government is always on the outlook to plug any loopholes in the act and regulations.

Examination of the results of the province's controls suggest that they have been highly successful. For example, agricultural and recreational land acquired by alien individuals and corporations totalled only 7,061 acres in 1978, in contrast to 30,306 acres, 159,699 acres, and 64,180 acres being acquired in the respective

Fig. 2. Acres Acquired by Non-Canadians and Non-Permanent Residents and Foreign-Controlled Corporations by Municipalities and Census Divisions Between 1975 and 1978*



*1975 is for the last seven months only.

SOURCE: Mapping prepared by this writer is based on statistical data provided in Alberta, Department of Energy and Natural Resources, Annual Report, 1979, pp. 67-69.

years of 1975, 1976 and 1977.[98] These comparatively large quantities of land being purchased by alien individuals in the 1976 and 1977 period may partly, however, have been in anticipation of the government introducing restrictive legislation. It is also interesting to note that southern Alberta rural land is in greatest demand by alien interests. In 1976, for example, of the total land bought by foreigners, 69 per cent was located south of Calgary, 16 per cent was north of Edmonton, and 15 per cent was between Calgary and Edmonton.[99] The best soils and land on the periphery of Alberta's urban centres also appears to be in greatest demand by alien interests (see Figure 2 and Appendix 5.10.8). A major factor for better soils being purchased is the nature of their location in Alberta. As one federal government study notes: "In Alberta, considerable quantities of class 1 agricultural land exist in the proximity of urban areas including Edmonton, Calgary, Lethbridge and Medicine Hat."[100]

It should also be noted that fears expressed by the Tory government in 1977 that money from Arab states would be entering the province to purchase agricultural and recreational land appear not to have been well-founded. According to statistics released in the 1979 annual report of the Alberta Department of Energy and Natural Resources (see Appendix 5.10.9) there has been no registered purchases of Alberta agricultural and recreational land by Arab states. Though, one must conceed that there is always the possibility of hidden investment. Averaged over a four year period from 1975 to 1978, the largest foreign investors were respectively France, West Germany, the

United States and Switzerland with 16 other countries purchasing the remaining amount.[101]

5.9 Conclusion

The foregoing account suggests that the Alberta government's restrictions on alien and non-resident land ownership stemmed from the government's desire to remove the threat of large scale speculation and to ensure a comparatively low amount of alien land ownership in the province. Initially the major focus of legislative change in Alberta was on public (Crown) lands with a shift later to private lands. This delay in restricting foreign purchases of private land was due in part to government reports which indicated that foreign purchases were still relatively low in the province. The provincial government also adopted the prevailing constitutional position that in order to pass legislation on alien land ownership it had to exclude residents from other Canadian provinces as well. Premier Lougheed stated that this type of restriction would be an undesirable limitation upon Canadian citizenship. This obstacle was removed when the federal government proclaimed The Citizenship Act in February, 1977. Shortly afterwards the Alberta government placed controls on alien ownership of agricultural and recreational land. The Alberta government also stated that the controls were in response to reports from the government's monitoring mechanism which indicated that purchases of rural land by foreigners were on the increase.

Prior to the government's action, the NDP and Social Credit opposition parties were actively pressuring the government to

implement controls by introducing their own private member's bills to restrict this type of investment through various means. The opposition parties also made repeated requests for legislation during debates in the legislature. There is no substantial evidence to suggest, however, that The Agricultural and Recreational Land Ownership Act was a result of opposition party pressures. Furthermore, this writer could not identify any major amendments made to the government's restrictions as a result of opposition requests.

As to interest groups, they were not extremely active in making submissions or expressing their concerns to the government. This lack of interest occurred both before and after the introduction of new legislation and policy. This absence of concern may in part be due to the limited and moderate nature of Alberta's legislation. For example, spokesmen for the Alberta divisions of the Urban Development Institute and the Housing and Urban Development Association of Canada both indicated that the exemption of urban land under The Agricultural and Recreational Land Ownership Act was a major factor for them not making submissions.

As to the media, they expressed general support towards the provincial government's effort to restrict alien land ownership. However, the media gave little coverage to this issue. When coverage did occur, it usually centered around the introduction of new legislation and policy. This reactive rather than proactive stance is exemplified in the introduction of The Agricultural and Recreational Land Ownership Act. While there was editorial comment made by two

major Alberta newspapers when the legislation was introduced, there was little coverage prior to that. After the legislation was passed, newspaper coverage seemed primarily devoted to reporting the statistical results released from the administation established to enforce the controls.

Government studies also had a varying impact. For example, it appears that the govenment did not pass amendments to the Public Lands Act in 1972 because it heeded the Select Committee's finding regarding the possible legal difficulties involved with the bill. In contrast, the provincial government's passage of The Agricultural and Recreational Land Ownership Act in 1977 went against recommendations made by the Land Use Forum in 1976. In both studies, however, the government utilized the Select Committee and the Land Use Forum as a vehicle to determine the attitudes and opinion of the Alberta public. The findings of these studies indicated that the Alberta public generally supported the principle of restrictive legislation on land speculation and alien land ownership. These surveys also likely provided the Alberta government with the assurance that there existed a base of support for them to pass restrictive legislation.

To provide some final conclusions on the three provinces studied, it perhaps now is appropriate to proceed with the final chapter.

NOTES

[1]J. Richards and L. Pratt, Prairie Capitalism (Toronto: McClelland and Stewart Limited, 1979), pp. 155-159.

[2]Alberta, Journals of the Legislative Assembly of the Province of Alberta, April 15, 1966, p. 80.

[3]For a further elaboration on federal and provincial government policy on homestead sales, see Chester Martin, "Dominion Lands" Policy (Toronto: McClelland and Stewart Ltd., 1973), pp. 128-156.

[4]Alberta, O.C. 1761/66, Alberta Regulations, 1966, p. 745.

[5]Alberta, O.C. 2345/66, The Alberta Gazette, 1966, p. 1022.

[6]Alberta, O.C. 1024/67, The Alberta Gazette, 1967, p. 531.

[7]Richards and Pratt, Prairie Capitalism, p. 162.

[8]R. C. Scace, "The Development and Use of Public Land in Alberta," in Canadian Public Land Use in Perspective, eds. J. G. Nelson, R. C. Scace and R. Kouri, Proceedings of a Symposium Sponsored by the Social Science Research Council of Canada, Ottawa, Ontario, 25-27 October 1973, pp. 49, 62.

[9]The Progressive Conservatives won 49 seats and the Social Credit and NDP parties 25 and 1 seat respectively. As such, the Progressive Conservatives faced a substantial opposition in the Legislature.

[10]Alberta Progressive Conservative Party, New Directions for Alberta in the Seventies, 1971, section 1(B).

[11]This conclusion is based on a review of the Edmonton Journal and Calgary Herald newspapers.

[12]Alberta New Democratic Party, Alberta New Democratic Party Election Platform, 1971, pp. 1-2.

[13]This conclusion is based on a review of a number of documents which did not indicate any reference to this issue.

[14]Alberta, O.C. 1829/71, The Alberta Gazette, 1971, p. 1203.

[15]Alberta, O.C. 1877/71, The Alberta Gazette, 1971, p. 1218.

[16]Ibid.

[17]Alberta, Select Committee of the Legislative Assembly on Foreign Investment, Interim Report on Public and Private Lands and Supplementary Report (Edmonton: Queen's Printer, 1973), Appendix A.

[18]Alberta, Legislative Assembly, The Sale of Crown Lands Act, Bill 135, March, 1971.

[19]Select Committee of the Legislative Assembly on Foreign Investment, Interim Report, p. 1.

[20]Canada, Government of Canada, Foreign Direct Investment in Canada (Ottawa: Information Canada, 1972).

[21]The three other Conservatives were Thomas Chambers, Ronald Ghitter, and Peter Trynchy. The two Social Credit MLAs were Roy Wilson and George Ho Lem.

[22]Select Committee of the Legislative Assembly on Foreign Investment, Interim Report, p. 1.

[23]Ibid., p. 4.

[24]Ibid., Appendix D, p. 2.

[25]Ibid.

[26]Ibid., p. 8.

[27]Ibid., p. 6.

[28]Ibid.

[29]Alberta, Alberta Hansard, May 4, 1973, p. 53-2837.

[30]Alberta, Legislative Assembly, The Public Lands Amendment Act, 1973, Bill 55, May, 1973.

[31]Alberta, Alberta Hansard, May, 1973, pp. 56-2983 and 57-3129.

[32]The Albertan, May 5, 1973; Calgary Herald, May 5, 1973; Lethbridge Herald, May 5, 1973; Medicine Hat News, May 5, 1973; and Red Deer Advocate, May 5, 1973.

[33]E. Gamache, "The Control of Alien Land Ownership and the Province of Alberta," in Foreign Investment of Land - Alternative Controls, ed. Peter J. Horwood (Vancouver: University of British Columbia, 1976), p. 65.

[34]Alberta, Alberta Land Use Forum, Land Use Forum: Report and Recommendations (Edmonton: Queen's Printer, 1976), p. 1.

[35]Ibid.

[36]Edmonton Journal, January 27, 1976.

[37]Alberta Hansard, October 25, 1974, p. 3210.

[38]Ibid., p. 3213.

[39]P. Hayden, J. Burns and I. Schwartz, Foreign Investment in Canada: A Guide to the Law (Scarborough: Prentice-Hall of Canada, 1974), p. 70300.

[40]Ibid.

[41]Alberta Hansard, October 28, 1974, p. 3282.

[42]Alberta Hansard, October 25, 1974, p. 3211.

[43]For Clark, see Alberta Hansard, October 28, 1974. For Notley, see Alberta Hansard, November 4, 1974, p. 3509.

[44]Alberta, Department of Federal and Intergovernmental Affairs, Annual Report, 1975 - 76, p. 56.

[45]For Speaker, see Alberta Hansard, May 9, 1974, p. 1902; For Taylor, see Alberta Hansard, October 28, 1974, p. 3277; For Buck, see Alberta Hansard, February 7, 1975, p. 450.

[46]Alberta Hansard, November 20, 1975, pp. 1214-1221.

[47]Alberta New Democratic Party, Platform Statements, Alberta New Democratic Party, March 1975 Election, 1979.

[48]Alberta Progressive Conservative Party, The Platform of the Alberta Progresive Conservative Party and Its Candidates, Alberta Provincial Election 1975, p. 7.

[49]Ibid.

[50]In researching this area, there were no documents available that indicated a position by the Social Credit party.

[51]Alberta Hansard, December 11, 1975, pp. 1551-1552.

[52]Ibid.

[53]Premier Lougheed corresponded directly with Prime Minister Trudeau on the subject in August 1975. This resulted in a reply from Trudeau dated September 5, 1975. Lougheed then responded with a letter dated September 22, 1975. Lougheed then received a reply from Trudeau on November 4, 1975. Ibid., pp. 1552-1554.

[54]Canadian Citizenship Act, Statutes of Canada 1974-75-76, c. 108.

[55]Alberta, Alberta Land Use Forum, Submissions on Land Use, Briefs Presented to the Alberta Land Use Forum July, 1974 - May, 1975, Volume 1 (Edmonton: Queen's Printer, October, 1975), p. iv.

[56]C.C.M Pei, "Foreign Investment and Ownership in Agriculture in Alberta," A Paper Sponsored by the Rural Education and Development Association, Edmonton, Alberta, October 1976, p. 5.

[57]Alberta Land Use Forum, Land Use Forum: Report and Recommendations, p. 114.

[58]Ibid., p. 115.

[59]Edmonton Journal, January 27, 1976.

[60]Ibid.

[61]Alberta Hansard, March 25, 1976, p. 385.

[62]Ibid.

[63]Canada, SOR/77-346, "The Foreign Ownership Land (Temporary) Regulations," The Canada Gazette, Part II, Vol. III, No. 9, April 28, 1977, pp. 2053-2057.

[64]Alberta Hansard, April 22, 1977, p. 908.

[65]Alberta Hansard, March 18, 1977, p. 357.

[66]Alberta Hansard, March 9, 1976, p. 119; Alberta Hansard, March 4, 1977, p. 175.

[67]For the NDP, this conclusion was based on Jim McInnis, Executive Assistant, New Democratic Party of Alberta, Interview, June 15, 1979.

[68]Alberta Hansard, May 11, 1977, p. 1284.

[69]Jim McInnis, Executive Assistant, New Democratic Party of Alberta, Interview, June 15, 1979.

[70]Edmonton Journal, March 28, 1977, p. 1276.

[71]Ibid.

[72]Alberta Hansard, May 11, 1977, p. 1276.

[73]Ibid.

[74]Ibid., p. 1277.

[75]Alberta Hansard, April 21, 1977, p. 273.

[76]Canada, SOR/77-346, "The Foreign Ownership Land (Temporary) Regulations," The Canada Gazette, Part II, Vol. III, No. 9, April 28, 1977, p. 2053.

[77]The Citizenship Act, Statutes of Canada 1974-75-76, c. 108, s. 33(4).

[78]Western Producer, July 13, 1978.

[79]Alberta Hansard, May 11, 1977, p. 1279.

[80]Calgary Albertan, April 22, 1977.

[81]Ibid.

[82]Calgary Albertan, April 22, 1977.

[83]Edmonton Journal, April 26, 1977.

[84]David Coombs, Director, Department of Energy and Natural Resources, Foreign Ownership of Land Division, Interview, June 12, 1979.

[85]Tom Priddle, Executive Director, Urban Development Institute (Alberta division), Interview, June 6, 1979. G. C. Walker, President, Housing and Urban Development Association of Canada (Alberta division), Interview, June 7, 1979.

[86]David Coombs, Director, Department of Energy and Natural Resources, Foreign Ownership of Land Division, Interview, June 12, 1979.

[87]The Canadian Newspaper Index, ed. Kwai Yiu Ho (Toronto: Information Access, 1977), Volume 1; The Canadian Newspaper Index, ed. Kwai Yiu Ho (Toronto: Information Access, 1978), Volume 2; The Canadian Newspaper Index, ed. Kwai Yiu Ho (Toronto: Information Access, 1979), Volume 3.

[88]Calgary Herald, September 30, 1978.

[89]See, for example, Calgary Albertan, August 25, 1977, May 13, 1978; Calgary Herald, May 13, 1978, August 20, 1979; and Edmonton Journal, August 25, 1977, April 8, 1978, May 9, 1978, May 13, 1978, and November 16, 1978.

[90]Calgary Albertan, August 21, 1979.

[91]Ibid.

[92]Ibid.

[93]Ibid.

[94]Edmonton Journal, May 30, 1979.

[95]Ibid.

[96]Financial Post, October 6, 1979.

[97]Bud Miller, Associate Minister of Public Lands and Wildlife, Department of Energy and Natural Resources, Interview, August 28, 1981.

[98]Government of Alberta News Release, August 20, 1979. This reduction in the number of acres acquired by foreigners has been basically maintained according to other government reports. See, for example, Alberta, Department of Energy and Natural Resources, Annual Report, March 31st, 1982, p. 88.

[99]Calgary Herald, August 21, 1979.

[100]Canada, Department of Environment, Canada's Special Resource Lands (Hull: Canadian Government Publishing Centre, Supply and Services Canada, 1979), p. 8.

[101]In comparison, during the 1981-1982 fiscal year, the four largest foreign investors were respectively the United States, Italy, France and Ireland. Alberta, Department of Energy and Natural Resources, Annual Report, March 31st, 1982, p. 89.

Appendix 5.10.1

WRITTEN BRIEFS AND LETTERS FILED WITH THE ALBERTA SELECT COMMITTEE ON FOREIGN INVESTMENT

*M. Gawlak	*B. Kitchener, Vice-President Alberta Fish & Game Assoc., Chairman Zone #4 and 5
E. Kush, Q.C.	
B. Kathol	*G. Shaw and Panel School of Economic Science and Social Philosophy
J. V. Drumheller	
A. Shumaker	*Dr. J. Russell, Chairman of Edmonton Chapter, Committee for an Independent Canada
S. B. Jones	
G. J. Witt	*M. Anderson, *Dr. W. Schultz, Dr. M. Lerohl and Dr. W. Phillips, members of the Department of Agricultural Economics and Rural Sociology, University of Alberta
G. Barry	
J. F. Carter	
W. E. Abrahamson	*W. F. Johns, Executive Secretary, Calgary Real Estate Board Cooperative Ltd.
H. Acheson	
P. Cimley	Dr. H. A. Buckmaster, Department of Physics, University of Calgary.
J. and E. Landeen	W. J. Plosz, Executive Secretary Unifarm
D. Ross	A Private Citizens Group from Lacombe and Blackfalds
F. O'Keefe	
M. Lee	
B. W. Hambrook	

Note: The Committee received a number of letters supporting the principle of Bill 107 subsequent to commencement of the preparation of the report.

*Gave Oral Presentations at Public Hearing

SOURCE: Alberta, Select Committee on Foreign Investment, Interim Report on Public and Private Lands and Supplementary Report (Edmonton: Queen's Printer, 1973), Appendix B.

Appendix 5.10.2

LAND OWNERSHIP IN ALBERTA

	(Sq.Mi.)	(Acres)	(%)	
Privately owned land (patented) or under Disposition Leading to Title (Homestead Sale, Agriculture Farm Sale, etc.)	86,205	55,171,200	34.6	
Federal lands (National Parks, Indian Reserves and Forest Experimental Stations)	26,127	16,721,280	10.5	
Provincial Lands				
Land under Public Land Dispositions but not leading to title (Grazing leases, cultivation leases, etc.)	9,172	5,870,080	3.8	
Provincial Parks, Historic Sites, including Willmore Wilderness Park	2,357	1,508,480	0.9	54.9
Special Areas (not available other than grazing)	7,920	5,068,800	3.2	
Vacant Land	117,019	74,892,160	47.0	
Total land area	248,800	159,232,000	100.0	
Total water area	6,485	4,150,400		
Total area of province	255,285	163,382,400		

SOURCE: Alberta, Select Committee on Foreign Investment, Interim Report on Public and Private Lands and Supplementary Report (Ed-onton: Queen's Printer, 1973), Appendix D, p. 5.

Appendix 5.10.3

PASSAGE THROUGH THE LEGISLATIVE ASSEMBLY OF BILL 55 - THE PUBLIC LANDS AMENDMENT ACT

Friday, May 4, 1973	Bill 55 - The Public Lands Amendment Act was introduced by Minister of Lands and Forests Dr. Allan Warrack and read a first time.
Tuesday, May 8, 1973	Warrack moved second reading of Bill 55. No debate occurred from any of the three political parties in the Legislature. Bill 55 was then read for the second time and forwarded to the Committee of the Whole.
Thursday, May 10, 1973	In the Committee of the Whole all sections of the bill, the title and preamble were agreed to without debate. Warrack then moved that Bill 55 be reported. The motion was carried.
Thursday, May 10, 1973	Warrack moved that Bill 55 be read a third time. The motion was carried without debate. Later that day Bill 55 - The Public Lands Amendment Act was given Royal Assent.

SOURCE: Alberta, Alberta Hansard, May, 1973, pp. 53-2837, 56-2983 and 57-3129; Alberta, Journals of the Legislative Assembly of the Province of Alberta, May 10, 1973, p. 178.

Appendix 5.10.4

PASSAGE THROUGH THE LEGISLATIVE ASSEMBLY OF BILL 63 - THE LAND TITLES AMENDMENT ACT, 1974

Wednesday, October 23, 1974	Bill 63 - The Land Titles Amendment Act, 1974 was introduced by Attorney General and Provincial Secretary Mervin Leitch.
Friday, October 25, 1974	Leitch moved second reading of Bill 63. Debate occurred from all three political parties in the Legislature for approximately forty-five minutes. Bill 63 was then read for the second time and forwarded to the Committee of the Whole.
Monday, October 28, 1974	At the Committee of the Whole debate occurred from all three political parties on Bill 63 for approximately one and a quarter hours. Minister of Education Lou Hyndman then moved that the Committee rise and sit again later on Bill 63. The motion was carried.
Thursday, October 31, 1974	Debate occurred again at the Committee of the Whole from all three political parties on Bill 63 for approximately one and a half hours. Leitch then moved that Bill 63 be reported as amended. The motion was carried.
Monday, November 4, 1974	Leitch moved that Bill 63 be read a third time. Debate then occurred from all three political parties in the Legislature on Bill 63 for approximately forty-five minutes. The motion was then carried.
Wednesday, November 6, 1974	Bill 63 - The Land Titles Amendment Act, 1974 was given Royal Assent.

Appendix 5.10.4 (cont'd)

SOURCE: Alberta, Alberta Hansard, October, 1973, pp. 3105, 3209-3215, 3271-3283, and 3420-3433; Alberta Hansard, November 1974, pp. 3507-3514; Alberta, Journals of the Legislative Assembly of the Province of Alberta, November 6, 1974, p. 170.

Appendix 5.10.5

SUBMISSIONS PERTAINING TO ALIEN LAND OWNERSHIP FILED WITH THE ALBERTA LAND USE FORUM

Grande Prairie Land Advocate Committee

Manning Land Advocate Committee

Peace River Land Advocate Committee

Grimshaw Chamber of Commerce

Edson Land Advocate Committee

Claresholm Land Advocate Committee

Taber Land Advocate Committee

Vulcan Land Advocate Committee

Ernest Manning High School Land Advocate Committee

Olds Land Advocate Committee

Rimbey Land Advocate Committee

Stettler (Central Alberta) Land Advocate Committee

Three Hills (Carbon) Land Advocate Committee

High River Land Advocate Committee

Nanton Land Advocate Committee

Strathmore Land Advocate Committee

Dr. B. Lee and Lawrence Hamilton (Calgary)

Youngstown (Oyen) Land Advocate Committee

Appendix 5.10.5 (cont'd)

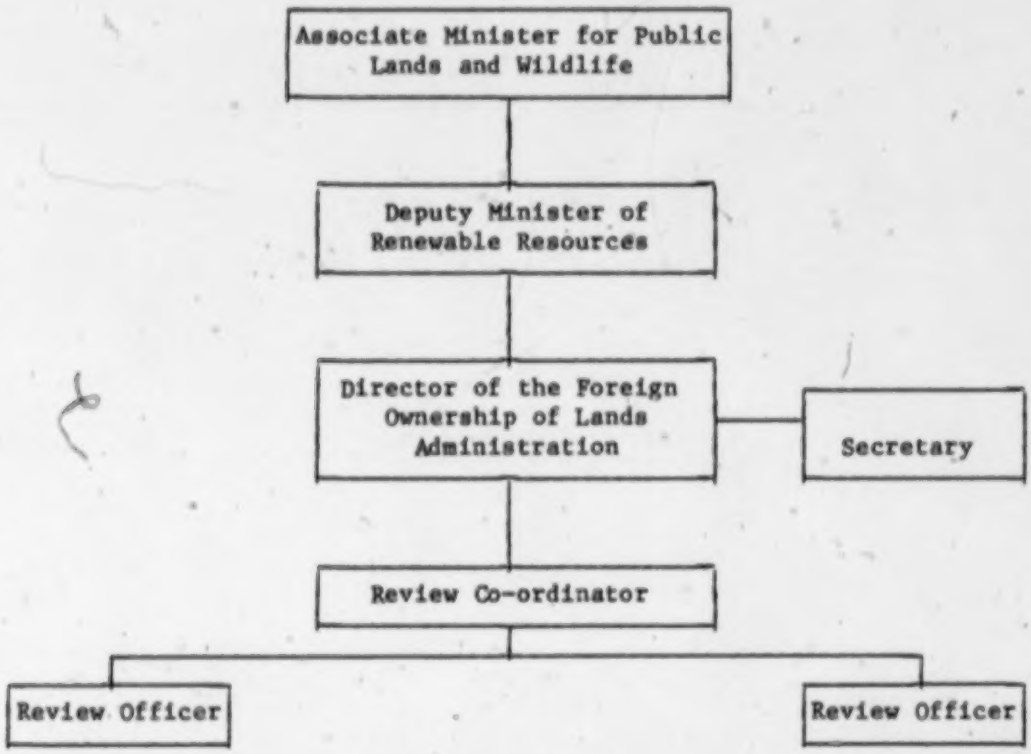
Note: Through the Rural Education and Development Association, land use advocate committees were formed to obtain community responses to land use issues. In the above land use committees, the committees were usually composed of between two to four individuals.

SOURCE: The above list of submissions is compiled from the publication: Alberta, Alberta Land Use Forum, Land Use Forum: Report and Recommendations (Edmonton: Queen's Printer, 1976), Volumes 1 to 8.

Appendix 5.10.6

AN ORGANIZATIONAL CHART OF THE FOREIGN OWNERSHIP OF LAND ADMINISTRATION IN ALBERTA

DEPARTMENT OF ENERGY AND NATURAL RESOURCES



SOURCE: Interview with David Coombs, Department of Energy and Natural Resources, Foreign Ownership of Land Administration, Edmonton, Alberta, 12 June 1979, and Alberta, Department of Energy and Natural Resources, The Administration and Management of Alberta Public Lands, Energy and Natural Resources Report Number 85, 1979.

Appendix 5.10.7

PASSAGE THROUGH THE LEGISLATIVE ASSEMBLY OF BILL 40 - THE AGRICULTURAL AND RECREATIONAL LAND OWNERSHIP ACT

Thursday, April 21, 1977	Bill 40 - The Agricultural and Recreational Land Ownership Act was introduced by Minister of Federal and Intergovernmental Affairs Lou Hyndman.
Wednesday, May 11, 1977	Hyndman moved second reading of Bill 40. Debate occurred from all three political parties in the Legislature for approximately one and a half hours. Bill 40 was then read for the second time.
Tuesday, May 17, 1977	In the Committee of the Whole, Bill 40 is considered for approximately two minutes. Hyndman then moved that Bill 40 be reported. The motion was carried.
Wednesday, May 18, 1977	Hyndman moved that Bill 40 be read a third time. This motion was carried. Later that day, Bill 40 - The Agricultural and Recreational Land Ownership Act was given Royal Assent.
Tuesday, May 15, 1979 (two years later)	The Agricultural and Recreational Land Ownership Act was proclaimed to be effective on June 1, 1979 by Order in Council 446/79.

SOURCE: Alberta, Alberta Hansard, April 21, 1977, p. 873; Alberta Hansard, May 1977, pp. 1276-1287, 1407 and 1425.

Appendix 5.10.8

ACRES ACQUIRED IN ALBERTA BY NON-CANADIANS AND NON-PERMANENT RESIDENTS AND FOREIGN CONTROLLED CORPORATIONS BY SOIL CLASS

Soil Class	1975*	1976	1977	1978	Total	Percent of Acres Purchased	Cumulative Percent
1	2,172	2,456	4,022	730	9,380	3.59	3.58
2	8,897	34,053	17,450	1,006	61,406	23.51	27.12
3	7,540	31,010	17,489	1,251	57,290	21.93	49.08
4	5,455	27,901	10,291	2,276	45,923	17.57	66.56
5	853	42,078	10,247	1,448	54,626	20.91	87.50
6	3,715	19,193	3,226	350	26,484	10.14	97.65
7	634	2,559	1,064		4,257	1.63	99.28
Organic	1,040	449	391		1,880	0.72	100.00
Total	30,306	159,699	64,130	7,061	261,246	100.00	100.00

* 1975 is for the last seven months only.

SOURCE: Government of Alberta News Release, August 20, 1979.

Appendix 5.10.9

ACRES ACQUIRED BY NON-CANADIANS AND NON-PERMANENT RESIDENTS

AND FOREIGN CONTROLLED CORPORATIONS BY COUNTRY

Country	1975*	1976	1977	1978	Total	Percent
United States	11772	20158	13136	1632	46698	17.88
Germany	6926	22400	30944	1536	61806	23.66
Italy	2648	13023	6903	451	23025	8.81
Switzerland	662	14357	8892	-	23911	9.15
United Kingdom	388	6075	230	102	6795	2.60
Holland	1512	2810	861	3308	8491	3.25
Denmark	166	-	-	-	166	0.06
France	1091	74453	316	-	75860	29.04
Liechtenstien	903	3470	-	-	4373	1.67
Austria	693	2240	159	-	3092	1.18
Panama	636	-	2036	-	2672	1.02
Erie	160	-	-	-	160	0.06
Belgium	-	-	543	32	575	0.22
Lebanon	154	-	-	-	154	0.06
Switzerland & Germany	2595	318	-	-	2913	1.12
Grand Cayman	-	30	-	-	30	0.01
Japan	-	80	160	-	240	0.09
Uganda	-	5	-	-	5	0.00
Hong Kong	-	40	-	-	40	0.02
Sweden	-	80	-	-	80	0.03
Borneo	-	160	-	-	160	0.06
TOTAL	30306	159699	64180	7061	261246	100.00

*1975 is for the last seven months only.

SOURCE: Alberta, Department of Energy and Natural Resources, Annual Report, 1979 (Edmonton: Queen's Printer, 1979), p. 66.

CHAPTER 6

CONCLUSION

This chapter summarizes our major findings. It outlines the common pattern of policy-making on alien and non-resident land ownership that emerged in the three provinces. The chapter then discusses the underlying causes for restrictions, the goals of governments and the resultant legislation and policy. These factors varied significantly between the three provinces due mainly to differences in the social and economic environment of the provinces and ideological differences between political parties. Finally, the chapter examines the debate on whether or not alien and non-resident land ownership should be restricted, and if so, by which level of government.

6.1 Pattern of Policy-Making

It should be recalled that prior to the 1970s there was little or no control over alien and non-resident land ownership in the three provinces. However, due to a growing climate of concern over foreign investment, each province established in the early 1970s established special legislative committees to study alien and non-resident land ownership and other issues (such as the studies conducted by Ontario and Alberta). The composition of these special legislative committees included a minority component of opposition party members. One of the major duties of these select committees was consultations with

interest groups and the public on the issue of alien and non-resident land ownership. Another major task was the collection of data to determine the amount of alien and non-resident land ownership in the province. Such work was important. It provided an information base for future government decision-making.

When the select committees' completed their reports, the recommendations were sometimes accepted, sometimes modified and sometimes rejected by governments. Further studies were also conducted that sometimes resulted in amendments to current restrictions or the introduction of new legislation. At the outset, the Ontario and Alberta provincial governments developed a cluster of legislation and policies to restrict alien and non-resident land ownership while Saskatchewan's essential control is The Saskatchewan Farm Ownership Act.

While government studies were important, the foremost determinant of the controls implemented in the three provinces was the ideology of government. The government had the power to implement legislation as well as to initiate publicly funded government studies on this issue. When legislation was introduced, it was extensively debated by the opposition which was often divided on the best method to restrict this type of investment.

To administer new legislation or policy, the three provincial governments used existing government departments. Recommendations or findings made by these administrations also sometimes resulted in additional amendments to legislation.

6.2 Policy Determinants, Goals and Outputs

While the policy-making process was similar in the three provinces, the underlying causes for restrictions, the goals of governments and resultant legislation varied significantly between the three provinces. In Ontario, government restrictions on alien and non-resident land ownership stemmed from economic problems, not principled opposition to foreign ownership. Salient problems included inflation and declining land availability which was attributed to increasing foreign ownership. The two major acts were introduced in 1974 to deal with these problems were The Land Transfer Tax Act and The Land Speculation Tax Act. While opposition parties, interest groups, the public and the media supported the legislation's main objective of taxing land speculators, much debate centered around the proper policy response.

At the outset, amendments to the legislation during the 1974-75 period were necessary because the original statutes were developed quickly as ad hoc responses to immediate problems notably high inflation in the Ontario land market. In responding to an existing problem, it appears that the government made its initial controls overly restrictive so that inflation would be dampened. For example, within a year the government found it necessary to reduce the land speculation tax from 50 per cent to 20 per cent. The next major amendments occurred in 1977 and 1978. The government then reduced the restrictiveness of its legislation in response to declining investment

and growth in the Ontario economy. Now the government's remaining taxation measure on private land - The Land Transfer Tax Act - applies only to agricultural and recreational land. To obtain information on alien and non-resident land ownership, the government passed in 1980, An Act to require the Registration of Non-Resident Interests in Agricultural Land in Ontario. The government stated that this act was passed because an up-to-date inventory of land ownership was necessary for this important agricultural resource.

This legislation also provided the only case out of the three provinces whereby there was some evidence that the government's initiative to pass related legislation in this field was in response from pressures from the newspaper media.[1] In general, the newspaper media in the three provinces gave rather limited coverage to this issue. When it did occur, it usually centered around the introduction of new legislation and policy. After legislation was passed, newspaper coverage was devoted to reporting data released by the administration established to enforce the controls. The media's reactive stance suggests that of the various factors examined for having a potential impact on the development of legislation in this field, it may be the least important factor.

In Saskatchewan, the government's major restriction on alien and non-resident land ownership is The Saskatchewan Farm Ownership Act. This law arose because of the importance of agriculture in the Saskatchewan economy and the governing New Democratic Party's opposition to foreign investment. The legislation had to be

substantially amended in order to increase its effectiveness for several reasons. First, Saskatchewan was one of the first provinces to introduce restrictive legislation. As such, it did not know how restrictive its legislation should be. And as other provinces implemented controls, Saskatchewan's legislation fell out of line with restrictions in force elsewhere. Another possible contributing factor for the amendments is that the initial controls were in response to an anticipated rather than an existing problem. This is significant since the government would less likely feel the need to introduce strict measures (as compared to the Ontario government when it felt it necessary to introduce strict measures to deal with high inflation in their land market).

In general, interest groups, the public and the media supported the principle of the legislation. However, it appeared that farm groups pressured the government to act. The government was also responsive to their concerns since interest groups were provided an opportunity to submit briefs and make presentations to the select committee studying this issue, as well as to express their concerns at two provincial land use workshops. The government was also indirectly pressured by the Saskatchewan Farm Ownership Board which suggested that the legislation was not effective. This may still be the case since later reports from the Board indicate that while this type of investment is not increasing significantly, it remains a problem. Currently, the act limits the amount of land owned by non-resident

individuals and non-agricultural corporations to a maximum aggregate holding of no more than 10 acres effective May 6, 1980.

In Alberta, the provincial government has passed an array of legislation. In so doing, the overriding principle appears to have been a perceived need to remove the threat of large scale speculation and to ensure a comparatively low amount of alien land ownership. Restrictions on alien and non-resident land ownership include a variety of regulations passed pursuant to An Act respecting Public Lands during the late 1960s and early 1970s. These regulations restrict public lands being acquired for agricultural purposes. It appears that these restrictions were in response to pressures being put on the land due to increases in population, wealth and accessibility.

The province's Public Land Act was also amended in 1973 for the underlying principle to prohibit the sale of Crown land to anyone other than Canadians. In 1974, amendments were also introduced to the province's Land Titles Act for the major purpose of obtaining information on the citizenship of land buyers in order to determine whether or not further restrictive legislation was necessary. Results from this monitoring system, later in part, prompted the government to introduce in 1977 The Agricultural and Recreational Land Ownership Act. Other reasons cited for this law included the government's desire to protect agricultural and recreational land for future generations of Albertans. The government also wanted to remove the threat of large scale purchases by wealthy Arab states.

In general, opposition parties, interest groups, the public and the media supported these restrictions. However, their participation in the policy process varied significantly. For example, the NDP and Social Credit opposition parties actively pressured the government to implement controls. In contrast, interest groups were inactive. This absence of concern may have been due in part to the limited and moderate nature of Alberta's legislation which does not restrict foreign capital from entering the province for industrial, commercial, and residential purposes. This is because the Progressive Conservative party supports foreign investment as a major source for the province's economic development.

6.3 Issues of Further Concern

Other pertinent questions arise when discussing the issue of alien and non-resident land ownership. Of primary importance is the question of whether or not there are real problems with alien and non-resident land ownership, and if so, should government intervene? A related issue is what level of government should be restricting this type of investment? The literature in this field spends little time discussing these questions. Experts disagree about whether there are real problems posed by alien and non-resident land ownership.[2] Obviously there are both benefits and costs. If alien and non-resident land ownership were to involve only costs, a clear case could be established for banning it altogether. The answer to the mix of benefits and costs lies in filtering out the bad effects while

securing the good effects. The Ontario, Saskatchewan and Alberta provincial governments have done this to the degree that they have restricted agricultural and recreational land but still allow foreign capital to enter the province to purchase urban land for industrial, commercial and residential purposes. However, even in the case of urban land, as was proved in Ontario, problems can arise with foreign ownership. At the outset, some of the most commonly cited potential problems with alien and non-resident land ownership are: (1) this investment increases the demand for land, and consequently, its price; (2) this investment is sometimes used only for speculative purposes; (3) this investment may lead property to be under-maintained in comparison to the property of full-time residents; and (4) this investment may lead to land utilization patterns which are not in accordance with the wishes of residents. In view of these problems, the question that still arises is whether or not provincial governments should be restricting other Canadians. It may be argued that in order to make Canadian citizenship a reality, Canadians should have the freest possible access to the national market - whether it be land, services, or capital - provided they obey the laws of general application of that province. Our constitutional statutes, as well as the early decades of post-Confederation history, bear witness to the fact that one of the fundamental goals of Cartier, Macdonald, Langevin, Tupper and the other founding fathers was to forge an economic union.[3] The development policy they put in place was focussed almost exclusively on the formation of a domestic market

that would include all the British colonies in North America, and on the works and undertakings required to ensure economic mobility within this common market.[4] The federal government has recognized this goal to the degree that the new Citizenship Act allows provinces to restrict aliens exclusively without having to restrict Canadians in other provinces. While this initiative should be helpful in achieving this goal, a review of the legislative debates, government documents and newspapers seems to suggest that current provincial legislation has not represented a significant barrier to the economic mobility of businesses across Canada.

The arguments for government intervention include the fact that land is too unique and valuable to be treated as an ordinary asset. This non-renewable resource produces the basic commodities, minerals and food which form the basis for all production and wealth. As such, if there are inefficiencies or unnecesary pressures on the land market - whether they be by aliens or Canadians - restrictions should be implemented. Canada's Constitution Act allows the federal and provincial governments a variety of ways to restrict economic mobility (e.g. financial assets and business establishments). If difficult circumstances arise, as one federal government document notes, "the pursuit of other political, social, economic and cultural goals justifies some restriction of the economic freedom of Canadians."[5] However, adds the document, "any provincial authority should bear in mind that whenever it discriminates against the residents of other provinces, it exposes its own residents to

retaliatory discrimination by the governments of these other provinces."[6] In this regard, little evidence suggests any retaliatory actions made by provinces to restrictions implemented by other provinces. On the other hand, a review of the literature in this field also shows that there is a lack of a reliable examination on the various approaches at the federal and provincial level that can protect this land resource equitably, affordably and permanently from this type of investment.

A final question is which level of government should restrict alien and non-resident land ownership? Obviously, there is little room for debate with regard to federal and provincial Crown lands. Both governments have exclusive authority with regard to such lands. However, in terms of privately-owned land, this writer concludes that after examining the three provinces a strong case rests with provincial control in this area. This is due to the fact that the nature of alien and non-resident land ownership is unique to each province (e.g. in terms of amount, type and level of increases). The social and economic environment (which proved often to be an underlying factor for legislation) also varied significantly between provinces. Thus, it could prove to be counter-productive to solve a problem with alien and non-resident land ownership as if it had the same causes and intensity throughout the nation and as if they could be effectively dealt with by the same policies for all provinces.

6.4 Conclusion

In summary, this study concludes that while a common pattern of policy-making emerged in the three provinces, the underlying causes for legislation, the goals of government and resultant legislation varied significantly between the three provinces. The social and economic environment and the ideological position held by the governing political party towards foreign investment were the two most important factors accounting for policy differences in the three provinces. Other elements of the environment which contributed to their outcome include the importance of the land resource in the province economy, the nature of alien and non-resident land ownership in the province (i.e. the amount, type and rate of increase) and the level of urbanization, wealth and population. These differences in the environment between each province suggests that provincial governments are best able to respond effectively to this type of investment. Since only three provinces were studied, this study also concludes that other Canadian provinces should be studied to determine more generally the determinants of policy in this important area.

NOTES

[1]Ontario, Legislature of Ontario Debates, June 9, 1980, p. 2649.

[2]An article providing arguments against restricting alien and non-resident land ownership is R. Hobart and S. McFadyen, "The Economic Implications of Foreign Ownership of Canadian Land," in Public Property? eds. L. Smith and M. Walker (Vancouver: The Fraser Institute, 1977), pp. 179-203. An article which provides arguments for restricting alien and non-resident land ownership is M. Gaffney, "Social and Economic Impacts of Foreign Investment in United States Land," in Natural Resources Journal 17 (1977): 377-392.

[3]Canada, Government of Canada, Securing the Canadian Economic Union in the Constitution (Ottawa: Minister of Supply and Services Canada, 1980), p. v.

[4]Ibid.

[5]Ibid, p. 2.

[6]Ibid.

APPENDICES

Appendix 7.1

SUMMARY OF CANADIAN LEGISLATION AND POLICY WITH REGARDS TO ALIEN AND NON-RESIDENT OWNERSHIP OF LAND

Governing Body	Name of Act or Most Major Recent Amendment	Description
Newfoundland		There are no restrictions currently in effect.
Prince Edward Island	An Act to Amend the Real Property Act (1972)	Under the Real Property Act, persons who are not residents of Prince Edward Island, may not acquire or hold title to any real property in the Province exceeding 10 acres in aggregate, or shore frontage exceeding five chains in aggregate, unless permission of the Lieutenant-Governor in Council is granted.
Nova Scotia	An Act to Provide for the Disclosure of Land Holdings by Non-Residents and Certain Corporations (1969)	The purpose of this Act is to provide an up-to-date inventory of the location and amount held by "non-residents" of the province of Nova Scotia. A "non-resident" is defined as an individual who is not a permanent resident of Nova Scotia and includes a person who acquires or acquired a landholding for or on behalf of an individual who is not or was not a permanent resident of Nova Scotia. The Act, however, does not prevent nor in any way hinder the transfer of land by persons

Appendix 7.1 (cont'd)

Governing Body	Name of Act or Most Major Recent Amendment	Description
Nova Scotia		whether they be residents or "non-residents". To date, only about 70 per cent of landowners have registered their property holdings under the Act.
New Brunswick		There are no restrictions, but the provincial government gives preference to residents of the province in the lease of Crown land for recreational purposes.
Quebec	The Land Transfer Duty Act (1976)	Under this Act a duty is levied on the transfer of land to "non-resident persons". In addition, when control of an existing corporation owning principally land is acquired by "non-resident persons", either from a resident or another non-resident, such corporation becomes liable for land transfer duties. A non-resident is an individual who is not ordinarily resident in Canada or if resident in Canada is neither a Canadian citizen nor lawfully admitted to Canada for permanent residence. A corporation is non-resident when more than 50 per cent of its voting capital stock are owned, or if the corporation is controlled directly or

Appendix 7.1 (cont'd)

Governing Body	Name of Act or Most Major Recent Amendment	Description
Quebec		indirectly in any manner whatever, by one or more persons not resident in Canada, or more than 50 per cent of its directors are non-resident individuals. The Act provides for exemptions and deferments of the payment of duties in several defined circumstances.
Quebec	An Act Governing the Acquisition of Farm Land by Non-Residents (1979)	This Act requires non-residents of Quebec to obtain the authorization of the "Commission de protection du territoire agricole du Quebec" for the acquisition of more than 4 contiguous hectares (including lands bisected by public roads) of farm land as defined. Natural persons are residents of Quebec if they have lived in the province for not less than 366 days during the 24 months immediately preceding the acquisition, and are deemed to be resident if they are members of the Canadian armed forces, agents or ambassadors of the federal or Quebec government, students, or the spouses or minor children of such persons, and fulfilled the above residency requirements before leaving the province in those capacities. The Act applies to all Quebec farm lands south of the

Appendix 7.1 (cont'd)

Governing Body	Name of Act or Most Major Recent Amendment	Description
Quebec		50th parallel with exception, in a designated agricultural region established under the Act to Preserve Agricultural Land, of land not included in a reserved area nor in an agricultural zone, and with the exception of farm land whose use for non-agricultural purposes is authorized under that Act.
Quebec	Amendments to the Quebec Lands and Forests Act (1972)	In 1972, regulations were passed pursuant to this Act by provincial government to regulate the sale of Crown land, but not so as to prevent the leasing of such lands to aliens and non-residents. Rather, for example, the provincial government charges higher prices for land sold to aliens who purchase approximately five per cent of all Crown land sold each year. Similarly, aliens are charged higher rents than residents for Crown land to be used for summer resorts, ski resorts, and so on. For the past few years, however, the government has been trying to reduce the number of leases which have in many cases, denied public access to the province's best outdoor recreation areas.

Appendix 7.1 (cont'd)

Governing Body	Name of Act or Most Major Recent Amendment	Description
Ontario	Amendments to the Land Transfer Act (1977)	This legislation imposes on certain types of land transferred to "non-resident" persons in Ontario a tax of 20 per cent of the value of the consideration of the transfer. Under the Act, restricted land includes land that is assessed or used as farm land, recreational land or woodland. Unrestricted land includes all land zoned for commercial or industrial use and all land having a residential assessment for municipal tax purposes or that is in use for commercial, industrial or residential purposes. A "non-resident" person is an individual who is not ordinarily resident in Canada or if ordinarily resident, is neither a Canadian citizen or landed immigrant. A partnership, syndicate, association or other organization is classified as non-resident when one-half or more of its members are non-residents. A trust is similarly classified when 50 per cent or more of the beneficial interests are held by non-residents. A corporation is classified as non-resident when it is controlled by non-residents or when one-half or more of the directors or members are non-resident. There are provisions providing for the deferral or refund of the tax for both individuals and corporations providing certain conditions are met.

Appendix 7.1 (cont'd)

Governing Body	Name of Act or Most Major Recent Amendment	Description
Ontario	Amendments to the Public Lands Act (1978)	Regulations passed pursuant to the Public Lands Act now allow for the sale of Crown land for cottages to residents of Ontario in the first year they are put up for sale. For the next year, those still unsold may be bought by other Canadians. After two years, foreign citizens will be allowed to lease the remaining land.
Ontario	An Act to Provide for Disclosure of Non-Resident Investment in Agricultural Land in Ontario (1980)	Under this Act, agricultural land is land that has been zoned for agricultural use, or or is assessed under the "Assessment Act", or used for a farm, agricultural land or an orchard. Every non-resident person acquiring an interest in agricultural land, on or after the day the Act came into force, that results in that person holding or maintaining an interest in an aggregate of ten or more hectares must file a registration report in the prescribed form. A non-resident person who held an interest in land on the day that Act came into force must also file a registration report. Should a non-resident dispose of agricultural land or any interest in agricultural land, they must file a notice of cancellation. If a resident of Canada holds land in interest for a non-resident, he/she is deemed to be a non-resident and is subject to the Act. All registration reports must be renewed every five years.

Appendix 7.1 (cont'd)

Governing Body	Name of Act or Most Major Recent Amendment	Description
Manitoba	The Crown Lands Act (1970)	Under the Crown Lands Act, land dispositions are made only to Canadian citizens or people who ordinarily reside in Canada. While there is no such restriction in the Act, the government has made a regulation to this effect under delegated powers to regulate the disposal of Crown lands generally. Currently, the provincial policy is not to sell Crown lands. The provincial government has also established a number of regulations with regard to the use of Crown land. Significant here are ranch and farming permits on Crown land and certain timber cutting rights being restricted to Canadian citizens, residents of Canada, or companies incorporated under federal or provincial laws. The disposal of oil and natural gas rights by lease is also limited to companies incorporated or licensed and registered under the laws of Manitoba. With regard to recreational lands, one finds that they are mostly owned by the province and their development must be under a lease agreement where the province has the ultimate control. Currently the provincial policy is to allow cottage lot development on a Canadian first basis.

Appendix 7.1 (cont'd)

Governing Body	Name of Act or Most Major Recent Amendment	Description
Manitoba	The Agricultural Lands Protection Act (1979)	Under this Act, individuals and corporations that are non-residents of Canada are restricted from directly or indirectly acquiring ownership of more than 20 acres of agricultural land in Manitoba. In order to eliminate circumvention of the Act, the provincial government in 1979 amended the regulations so that non-Canadian ownership of any partial interest in land with a Canadian subsidiary or partner is considered non-Canadian ownership of the total interest in the land. However, the agricultural lands protection board, which oversees the legislation, is given some discretionary powers to exempt persons or land from the Act where "the public interest will not be injuriously affected" and "no grave harm will be done".
Manitoba	Amendments to the Real Property Act (1977)	These amendments assist the enforcement of The Agricultural Lands Protection Act. Basically the District Registrar is enpowered to refuse the registration or any transfer of land, agreement for sale or caveat claiming an interest in land as a purchaser under the agreement for sale, or a deed of conveyance under the Registry Act, unless the transfer, agreement or caveat is accompanied by a

Appendix 7.1 (cont'd)

Governing Body	Name of Act or Most Major Recent Amendment	Description
Manitoba		statutory declaration signed and executed by the purchaser or a person acting on behalf of the purchaser stating such details as whether or not the purchaser is a resident Canadian and the amount of land owned by the purchaser in Manitoba. The Act does not apply to the disposition of any interest in mines and minerals, to Crown corporations or corporations that are agents to the Crown, to municipal corporations, school boards or hospital districts and land exempted under the regulations.
Saskatchewan	The Saskatchewan Farm Ownership Act (1980)	Amendments in 1980 to this Act now limit the aggregate landholdings of non-resident persons or non-agricultural corporations to not more than 10 acres effective May 6, 1980. The Act defines a "non-resident" as an individual who does not reside in Saskatchewan for at least 183 days in any year. The new reduced limit is not retroactive for non-resident individuals. However, if the non-resident person was once a resident holding the land but was not farming the land in question, that person has five years to reduce to the allowed aggregate land holding. A non-agricultural corporation

Appendix 7.1 (cont'd)

Governing Body	Name of Act or Most Major Recent Amendment	Description
Saskatchewan		must also reduce its' aggregate land holding to no more than 10 acres by January 1, 1994. The Saskatchewan Farm Ownership Board, which oversees the legislation, is provided with discretionary power to grant exemptions to non-resident persons and non-agricultural corporations. No restrictions are placed on the ownership of land by residents of the province or by agricultural corporations.
Alberta	The Public Lands Act (1973)	Under this Act an applicant for a homestead sale must be a Canadian citizen. Non-Canadians and non-Canadian corporations are not permitted to purchase and hold public lands. A number of regulations have also been passed pursuant to the Act. For example, under the Cultivation and Permit Regulations, an applicant must be a Canadian citizen; must be a veteran or meet specified residency requirements in Alberta; and must be operating a farm in Alberta.
Alberta	The Alberta Land Titles Act (1975)	A declaration is required as to whether a property purchaser is a non-Canadian or acting on behalf of a non-Canadian.

Appendix 7.1 (cont'd)

Governing Body	Name of Act or Most Major Recent Amendment	Description
Alberta	The Agricultural and Recreational Land Ownership Act (1979)	This Act prohibits the sale of agricultural and recreational land (controlled land) to non-Canadians and non-landed immigrants or to foreign controlled corporations. Lands not controlled are mines and minerals and land within the boundaries of cities, towns, new towns, villages and summer villages. Essentially a "foreign controlled corporation" is one in which the share ownership is more than 50% foreign. However, for public corporations with shares traded on a stock exchange in Canada, only shareholders owning 5% or more of the shares are taken into account, but 2/3 of the directors must be Canadian citizens or permanent residents. An ineligible person or a foreign-controlled corporation may acquire up to two parcels of controlled land containing in the aggregate not more than 20 acres. However, it does not discourage those existing or future non-Canadian investors who wish to come to Alberta to build new manufacturing plants, expand existing plants, invest in agricultural processing operations, recreational developments, new home subdivisions, or similar developments. Joint business ventures between non-Canadian enterprises and Alberta companies have been

Appendix 7.1 (cont'd)

Governing Body	Name of Act or Most Major Recent Amendment	Description
Alberta		and will continue to be encouraged. These will be excluded from controls if an exemption is approved by the Provincial Cabinet.
British Columbia	The Lands Act (1970)	In 1970, the provincial government passed the Lands Act which prohibits the disposition of Crown lands to non-Canadians. This provision applies only to individuals as distinct from corporations. However, B.C. government policy is such that Crown grants are not made to companies who are not either incorporated or registered in B.C. Presently, commercial, industrial, and waterfront Crown lands are only disposed by leasehold tenure but the B.C. government is considering a policy of leasehold tenure for all Crown lands. There is also a lease-develop-purchase policy to ensure that Crown lands are not held for speculative purposes. It should also be noted that in 1980 the provincial government re-developed its' policy on the sale of agricultural Crown land. The new lease-develop-purchase policy now allows Canadians only to acquire up to 1,280 acres of agricultural Crown land. However, the successful purchaser would have to develop 25 per cent of the land within five years.

Appendix 7.1 (cont'd)

Governing Body	Name of Act or Most Major Recent Amendment	Description
British Columbia	The Land Registry Act (1974)	By amendments to the Land Registry Act, which received royal assent in 1974, every person applying to be registered as an owner or holder of any charge on land is required to furnish a statutory declaration stating his citizenship. For corporations, the statutory declaration must state the number of directors, whether each is a Canadian citizen or a landed immigrant; and for any that are not, their name, address, and citizenship. If any facts change following the initial declaration, the Registrar of Titles must be informed.
Government of Canada	The Foreign Investment Review Act (1973)	This Act provides for the review of takeovers of existing Canadian business enterprises or certain new business initiatives by non-eligible persons (including non-Canadians and corporations controlled by non-Canadians) to ensure that such activities offer significant benefits to Canada. Its importance to land transactions in Canada results from its broad definition of the term business as "any undertaking or enterprise carried out in anticipation of profit".

Appendix 7.1 (cont'd)

Governing Body	Name of Act or Most Major Recent Amendment	Description
Government of Canada	Amendments to the Canadian Citizenship Act (1977)	Through amendments to the Canadian Citizenship Act, individual provinces are allowed the right to prohibit the sale of land to aliens.
Government of Canada	Amendments to the Territorial Lands Act	Under the Territorial Lands Act one has the Canada Mining Regulations which apply only to the Northwest Territories. These regulations provide that mining leases in the Northwest Territories can only be granted to a Canadian citizen or to a qualifying corporation. To qualify, a corporation must be incorporated within Canada and must have at least 50 per cent of its shares beneficially owned by Canadian citizens. Alternatively, the corporation must be incorporated in Canada and have its shares listed on a recognized Canadian stock exchange and must also give Canadians an opportunity to participate in the financing and ownership of the corporation.
Government of Canada	Amendments to the Public Lands Grants Act	Under the Public Lands Grants Act one has the Canada Oil and Gas Land Regulations which apply to both the Northwest Territories and the Yukon. These regulations provide that oil and gas leases in the Yukon and Northwest

Appendix 7.1 (cont'd)

Governing Body	Name of Act or Most Major Recent Amendment	Description
Government of Canada		Territories can only be granted to a Canadian citizen or to a qualified corporation. To qualify, a corporation must be incorporated in Canada with at least 50 per cent of its shares beneficially owned by Canadian citizens. Alternatively, the corporation must be incorporated in Canada and have its shares listed on a recognized Canadian stock exchange and give Canadians an opportunity to participate in the financing and ownership of the corporation.

SOURCE: Canada, Environment Canada, Lands Directorate, Nova Scotia, by V. Cranmer (Ottawa: Minister of Supply and Services Canada, 1974), p. 4; Canada, Canadian Intergovernmental Conference Secretariat, Federal-Provincial Committee on Foreign Ownership of Land (Ottawa: Information Canada, 1975), pp. 16, 19-20; P. Hayden, J. Burns and I. Schwartz, Foreign Investment in Canada: A Guide to the Law (Scarborough: Prentice-Hall of Canada, 1974), pp. 79, 301-2, 78,000-10; Canada, Environment Canada, Lands Directorate, Quebec, by O. L'Anglais (Ottawa: Minister of Supply and Services Canada, 1976), p. 32; Canada, Department of Industry, Trade and Commerce, Foreign Investment Review Agency, Selected Readings in Canadian Legislation Affecting Foreign Investment in Canada, Part I: Federal Laws and Regulations as of October 1977 (Ottawa: Minister of Supply and Services Canada, 1977); Canada, Department of Industry, Trade and Commerce, Foreign Investment Review Agency, Selected Readings in Canadian Legislation Affecting Foreign Investment in Canada, Part II: Provincial Laws and Regulations as of November 1977 (Ottawa: Minister of Supply and Services Canada, 1977), pp. 59, 147-8; Canada, Environment Canada, Lands Directorate, British Columbia, by E. Neville Ward (Ottawa: Minister of Supply and Services Canada, 1976), p. 15; Canada, Environment Canada, Lands Directorate, Manitoba, by E. Neville Ward (Ottawa: Minister of Supply and Services Canada, 1977), p. 90; Canada, Environment of Canada, Lands Directorate, Saskatchewan, by E. Neville Ward (Ottawa: Minister of Supply and Services Canada, 1978), p. 100; British Columbia, Debates of the Legislative Assembly, August 6, 1980, pp. 3749-50, 3767-3772; Canada News Facts, 14(1980):2363; Saskatchewan, Saskatchewan Farm Ownership Board, "Provincial Policies Regarding the Purchases of Agricultural Land by Non-Residents and Corporations", undated; The Non-Resident Agricultural Land Interests Registration Act, Statutes of Ontario 1980, c. 26; and An Act to Amend the Farms Lands Protection Act, S.O. 1978, c. 45.

Appendix 7.2

THE CANADA LAND INVENTORY FOR EVALUATING LAND CAPABILITY

Class I	Soils in this class have no significant limitations for crops.
Class 2	Soils in this class have moderate limitations that restrict the range of crops or require moderate conservation practices.
Class 3	Soils in this class have moderately severe limitations that restrict the range of crops or require special conservation practices.
Class 4	Soils in this class have severe limitations that restrict the range of crops, or require special conservation practices, or both.
Class 5	Soils in this class have very severe limitations that restrict their capability to produce perennial forage crops and improvement practices are feasible.
Class 6	Soils in this class are capable only of producing perennial forage crops, and improvement practices are not feasible.
Class 7	Soils in this class have no capability for arable culture or permanent pasture.
Class 8	Organic soils (not placed in capability classes).

Source: Wendy Simpson-Lewis et al, Canada's Special Resource Lands (Hull: Canadian Government Publishing Centre, Supply and Services Canada, 1979), pp. 3-4; and Canadian Federation of Agriculture et al, Working Paper of Land Use Policy (Ottawa: Canadian Federation of Agriculture, 1974), p. 8.

Appendix 7.3

LIST OF PRINCIPAL FEDERAL AND PROVINCIAL REPRESENTATIVES ON THE FEDERAL-PROVINCIAL COMMITTEE ON FOREIGN OWNERSHIP OF LAND

FEDERAL

Mr. B. L. Strayer (Chairman)
Assistant Deputy Minister
Department of Justice

ONTARIO

Mr. E. Marshall Pollock
Assistant Deputy Attorney General
Ministry of the Attorney General

QUEBEC

Mr. Jean Richard
Assistant Secretary General of the Executive Council

NOVA SCOTIA

Mr. H.F.G. Stevens, Q.C.
Clerk of the Executive Council

NEW BRUNSWICK

Mr. Barry Toole
Director, Intergovernmental Affairs

MANITOBA

Mr. James T. Cawley, P. Eng.,
Deputy Minister
Mines, Resources and Environmental Management

BRITISH COLUMBIA

Mr. Melvin H. Smith
Coordinator, Federal-Provincial Affairs

PRINCE EDWARD ISLAND

Mr. Douglas B. Boylan
Secretary to the Cabinet

Appendix 7.3 (cont'd)

SASKATCHEWAN

Mr. Roy S. Meldrum, Q.C.
Constitutional Advisor to the Executive Council

ALBERTA

Mr. Peter Knaak
Executive Assistant to the
Minister of Federal and Intergovernmental Affairs

NEWFOUNDLAND

Mr. Alec McEwen
Director
Lands and Surveys Division
Department of Forestry and Agriculture

Secretary of the Cabinet

Mr. Andre S. Millar, Canadian Intergovernmental Conference Secretariat

SOURCE: Canada, Federal-Provincial Committee on Foreign Ownership of Land, Report to the First Ministers (Ottawa: Information Canada, 1975), Appendix B.

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